

Godwin, Thomas

ROMANÆ
HISTORIÆ
ANTHOLOGIA

RECOGNITA ET AUCTA.

Robert AN *Mathewes*
ENGLISH EXPOSITION
Of the

ROMAN
ANTIQUITIES:

Wherein many

ROMAN and ENGLISH Offices are
parallel'd, and divers obscure Phrases explain'd.

For the use of *Abingdon* School.

Newly Revised and Enlarged by the Author.

L O N D O N,

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in Cornhill. 1674.

ROMAN

HISTORICAL

AND

ANTIQUITIES

OF

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EMPEROR

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1674



VIRO
COLENDISSIMO
D JOHANNI YOUNG
SS. THEOLOGIAE DOCTORI
& Ecclesiae WINTONIENSIS
Decano Ornatissimo

Εὐχαριστία διὰ τούτου.

Vir Ornatissime,

Non liberi quam libri pluribus ex-
poni periculis solent, cum pri-
mum prodeant in lucem, utrisque,
pariter opus est tutelari aliquo
numine obstetricante. Hoc olim
sensit anthologia hac nostra primum edita :
idem sentit eadem in hodierna duarum secti-
onum, & capitulorum aliquot superfatati-
one. Nacta igitur secundas suas cogitationes
te ambit patronum, qui facem aliquam mihi
in his antiquitatibus obambulanti pratulisti,
& quem multum fuisse in studiis meo promo-

A 2

venit

467823

vendis, palam, & sub dio prædico, videbis me
aliquoties alium a doctissimis viris, & ab illo-
rum sententiis alienum: Veritate enim præ-
ponderante, nullus apud me Plato, nullus erit
Aristoteles, (nolo ego istiusmodi insaniam in-
sanire, utcunque splendidam & autoritati-
vam:) Caterum tacitus hoc facio, & apud
me, citra omnem velitationis pulverem, raro
admodum quovis protracto in arenam, ne
videar ex illorum numero, qui ex nuda pugna
cum adversario aliquo eximio commissa, glo-
riola nescio quos fumos sibi pollicentur. Hæc
scribendi ratio si tibi placeat, alios non mo-
ror, quibus si simplex veritas non arriserit,
cum magnis nominibus deviare per me licebit.
Vale, & meas Musas, ut soleas, ama: ille,
quod jam faciunt, te colent semper, & omni
obsequio prosequuntur. Datum Abingdoniæ
14 Calend. Decemb. Anno *χρ̃στ̃ογ̃ν̃ι̃α̃ς* 1622.

Dignitati tuæ

multipli nexu mancipatus,

THO. GODWYN.

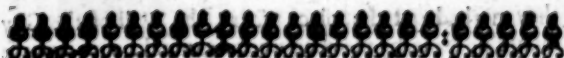
BENEVOLO LECTORI

M Iraris forsan & redarguis, quod nondum destitum ab his elementaribus; quasi vita mihi vitalis foret, in his minutiis integram meam ætatem eludere, & votum unicum in his præviis studiis senium contrahere. Qui sic sentis, nec me satis noris: nec ludi literarii (pone lenocinium nominis, moletrina dices,) iniquas leges, aut miseras quotidianas & omnigenas. Sentio ego me in pistrinum damnatum; & cogita tu hanc Anthologiam è pistrino prodeuntem. Si minus placeat illud, dabis puerorum circumstrepentium susurris, inter quos nata est: Si placeat, illud debes puerorum crebris interrogatunculis, quarum enodationes, me vel invitum indies reducent ad hæc studia, quæ alias jamdudum jussissem suas sibi res habere. Sic me amet Theologia, sacratior mihi pagina in votis, cum hæc in manibus, ludo cogente. Interim te monitum velim, quæ accessere, non vulgaria, aut obvia, nec quæ vulgus hominum, aut docuit aut didicit.

Vale.

A short
TABLE shewing the Argument
of every Book and Section.

Lib.	1. Of the Ro- man City. Sec.	1. Of the chief parts thereof. 2. Of the general Divisions of the Ro- man People.
	2 Of the Ro- man Reli- gion. Sec.	1. Of certain general Divisions of their Gods. 2. Of the Roman Priests with some par- ticular Gods; together with their Rites in Marriages and Burials.
	3. Of the State Political. Sec.	3. Of the Roman Games, which endeth with their manner of taking meat. 1. Of their Assemblies called Comitia; which Section is begun with the Ro- man Year; concluded with two Chap- ters of the Roman Garments.
		2. Of their Civil Magistrates. 3. Of their Civil Punishments. 4. Of all those Laws which I have obser- ved to be touched in Tully's Orations.
	4. Of the Art Military, as it was pra- ctised by the Romans. Cap.	1. Of their manner observed in esta- blishing their Leagues. 2. Of the Roman Legion, and the parts thereof. 3. Of the manner of Besieging a City. 4. Of the punishments towards their Enemies Captivated. 5. Of punishments towards the Roman Soldiers offending. 6. Of certain rewards, after the per- formance of any Noble Exploits.



THE
ROMAN
ANTIQUITIES

Expounded in
ENGLISH.

LIB. I. SECT. I.

Of the Chief Parts of the City.

CAP. I.

De modo condendarum, delendarumq; Urbium.

BEfore we handle the Description of the particular places in the *Roman* City, it will not be amiss to premise somewhat concerning the ancient manner of building and razing Cities. In the Building of Cities, the Founders thereof did usually consult with their Gods in their *Augural* observations; and ^a this course was observed by *Romulus* himself, in the first ^{M. Tullius} Foundation of *Rome*: After their *Augural* observations, ^{de divin.} they

they marked out the place where the Wall of the City should be built, by plowing up the ground: and because they left that place of ground unplowed, lightly lifting the plow over it, where they appointed the Gate of the City; thence à portando, from carrying and lifting the plough, they called the Gate *Porta*. This custom is fully described by *b Cato* *Capitulum augurii, qui arum novam condebat, toro & vacca arabat ubi arasset, arum faciebat; ubi portam volebat esse, aratrum tollebat, et portam vocabat. Virgil* alludeth unto it, *Interea Æneas urbem designat aratro.*

b M. Cato in
fragm.

The manner hereof was, that he who held the plough, did cast up the skirt of his gown on the right shoulder, and girt himself about, either because this was the usual habit of such who performed holy Rites; (in the number of which, this present action was reputed;) or that he might the more readily address himself to the business; or lastly, that he might symbolically by that pacifical habit intimate, that the flourishing estate of a City, is not so much preserved by war as by peace. Hence *Ovid. l. 4. Fastorum.*

*Ipse tenens stivum, designat mania fuleo,
Alba jugum niveo cum bove vacca iulii.*

c Cœl. Rhod.
ant. l. 26. c. 5.

The like custom was used also in the razing or demolishing of Cities, when they had been vanquished by the enemies: which observation giveth light to that of *Horace, Lib. 1. Od. 16.*

*Urbibus ultime
Stetere cause, cum perirent
Funditus, imprimeretque muris
Hostile aratrum exercitus insolens.*

CAP. 2.

De Monte Palatino.

Touching the name of *Rome*, from what occasion the City should be so denominated, divers Authors conceive diversly. Some are of opinion, that this City was built long before *Æneas* came out of *Troy*, and was then called

d Vid. Ant.
Conflaur. in
Ovid. Fast. l. 1.

called by the Latins *Palatinia*, which was a name of strength; whence *Evander* coming into Italy, called it *Roma*, from *Evander Rabus*. Others say, it was so called from *Aescanius* his daughter, whose name was *Roma*. But it is agreed upon by most Writers, that the founders were *Romulus* and *Remus*; and from *Romulus* it was called *Roms*, not *Romula*, because the diminutive *Romula*, might impute less prosperity thereunto. ^e Some say, that they built it in form of a Quadrangle upon one only Hill, called *Mons Palatinus*. ^f Others say, that *Fabius* left Rome as it was first built, with the fields thereof, painted in the form of a bow, the River *Tiber* being the string thereof. Upon this *Palatine Hill*, was always the Seat of the *Roman Empire*, which from the Hill took the denomination of a *Palace*: and hence all ^g stately Buildings which we call *Palaces*, took their name *Palatia*. This Hill had its first appellation ^h *Palatinus à Balando*, from the bellowing of cattle pasturing there in former times; and afterwards the first Letter being changed, it was called *Palatinus*, by the figure *αλίστομα*. *Virgil* seemeth to be of opinion, that the Hill was called *Palatinus*, by *Evander*, in remembrance of his Grand-father, whose name was *Pallas*, according to that,

— *Posuere in montibus urbem,*

Pallantis proavi de nomine Palatium. Virg. *Æn.* 1. 8.

In process of time six other hills by several Kings of Rome were added; whereby the City, and the *Pomarium*, that is, the territories of the City were enlarged; and Rome called *Urbs septicollis*, i. e. the City upon seven Hills.

Sed quæ de septem totum circumspicit orbem

Montibus, imperii Roma deumq; locus. Ovid. *trist.*

lib. 1. *Eleg.* 4.

Upon this *Palatine Hill* also stood the *Asylum*, or Sanctuary of Refuge, which *Romulus* opened in imitation of *Cadmus*, who at the building of *Thebes* was said to have opened a Sanctuary of Refuge, whither whatsoever Malefactor

lefactor could escape, were he bond or free, he was not to be punished. It was much like unto a Custom of the people in the City of *Croton*, who flying unto the Altars of their gods, obtained the forgiveness of faults not voluntarily committed. Whence these two Phrases are expounded alike, *Ad te tanquam ad Asylum*, and; *Ad te tanquam ad Aram confugimus*, i. e. we flee unto thee as our only refuge.

CAP. 3.

De Monte Capitolino.

THIS Hill was famous for three names: it was called *Capitolium*, *Mons Tarpeius*, and *Mons Saturni*. It was named *Saturn's Hill* & from the Heathenish god *Saturn*, who vouchsafed to undertake the protection of that place. It was named the *Terpian Hill*, l from *Tarpeia* one of the Vestal Nuns, Daughter to the chief Keeper of the Capitol, (this Hill being the Castle of Defence for the whole Town.) For this *Tarpeia* betrayed the Capitol into the enemies hands, bargaining to have the golden bracelets upon her enemies left hands, for this her Treason. Now the enemies when they were admitted in, did cast not their bracelets alone, but their bucklers also upon her, through the weight whereof she was pressed to death: upon which occasion the whole Hill was afterwards called, *The Tarpeian Mount*; but more principally a certain Rock of that Hill, called *Tarpeia rupes*, from whence Malefactors were sundry times tumbled head-long. The same was likewise called the *Capitol*, because when the foundation of a certain Temple, built in the Honor of *Jupiter*, was laid, a mans head, full fresh and lively, as if it had been lately buried, in yea, hot blood issuing out of it, was found there. *Arnobius* saith, that the name of this man, being alive, was *Tolus*, and hence from *Caput* and *Tolus*, the whole Hill was called *Capitolium*.

CAP.

1.
 & Rosin. ant.
 l. 1. c. 5.
 2.
 Plutar. in
 Romulo.

3.
 in Dion. Hali-
 car. l. 4.
 in Lips. de
 magnitud.
 Rom. c. 5.

CAP. 4.

De Colle Quirinali.

THIS Hill being in former time called *Agenalis*, then began to be called *Quirinalis*, when certain *Sabines*, called in Latine *Curetes*, came and inhabited there, (truce being made between the *Romans* and the *Sabines* :) though some would therefore have it named *Quirinalis*, because there was a Temple erected in the Honor of *Romulus*, called also *Quirinus*. It was called in the time of the Emperors, *Mons Caballus*, that is, the Horse-hill, taking its denomination from two Marble-Statues of *Alexander* taming his Horse *Bucephalus*: which Statues *Constantine* the Emperor brought to *Rome*, and placed them in the midst of certain Baths, which he made upon this Hill. There do appear in this Hill three risings, or hillocks; the one being called *Salutaris*, the other *Martialis*, and the third *Latiaris*. All this may be collected out of *o Rom. l. 2. c. 6.*

CAP. 5.

De Monte Calio.

THIS Hill hath his name from a certain *p* Captain of *Alex. Gen. dier. l. 6. c. 11.* *Hebrus*, which assisted *Romulus* against the *Sabines*. On this Hill, King *Tullus Hostilius* erected stately edifices, which for a time served as his Palace: but afterward they became the chief Council-house, whither *Senators* assembled themselves, for the determining of State-matters; and because this *Curia* did far exceed all others, therefore Authors many times use this word *q* *Curia* *Alex. Gen. dier. l. 1. c. 16.* simply, without any adjunction, to signify *Curiam Hostiliam*, as if there were no other. It much resembleth our Privy-Council-Chamber, in respect that none might sit there but only *Senators*; whereas in the Court-House which *Pompey* built (being therefore called *Curia Pompeia*)

⁂ Roſin. ant.
l. 7. c. 5.

⁂ Roſin. ibid.

⁂ Muſt. in ſua
Coſmog. l. 2.
c. 9.

⁂ Alex. Gen.
dier. l. 6. c. 11.

Pempeia). ⁂ other City Magiſtrates were admitted amongſt the *Senators*: and in *Curia Julia*, *id eſt*, the Court-houſe which *Julius* made, were examined ſ Foreign matters, as Embaſſages: but in *Curia Hoſtilis* domeſtical matters only were treated of, and that only by the *Senators*. ⁂ At this preſent time, this Hill is beautified with many Chriſtian Churches, as the Churches of *St. Stephen*, *St. Paul*, and *St. John*, our Saviours Hoſpital, &c. ⁂ It was alſo called *Mons Querculanus*, from the abundance of Oaks growing there.

CAP. 6.

De Monte Esquilino.

⁂ Roſin ant.
l. 1. c. 8.

THis Hill was ſo named, *quasi ex exaubinus*, *ab exaubis*, *id eſt*, from the night-watching which *Romulus* did undertake upon it, ſomewhat diſtruſting the fidelity of the *Sabines*, in the beginning of their League. In this Hill there were three Hillocks, named *Cisſus*, *Opis*, and *Septimius*.

CAP. 7.

De Monte Aventino.

⁂ Alex. Gen.
dier. l. 6. c. 11.

⁂ Plurar. in
Romulo.

THe *Aventine Mount*, took its name a from *Aventinus*, a certain King of *Albanum*, which was there buried. Upon this Hill ſtood *Hercules* his Altar, and certain Temples conſecrated to *Juno*, *Diana*, *Minerva*, *Lucina*, and *Murcia*, *id eſt*, *Venus*: whence the Hill hath ſometimes been called *Diana* her Hill, and *Mons Murcius*. Upon this Mount, *Remus* would have built *Rome*, and therefore it was called *Remonius Mons*: but ſince it hath been called *Mons Rignarius*, as it appeareth by *Plutarch* in the ſame place. It had moreover the name of the *Holy Mount*, being called in Latin *Mons Sacer*.

CAP.

CAP. 8.

De Monte Viminali.

BEcause of the abundance of wicker twigs which did grow upon this Hill, it was called *Mons Viminalis*. *vimen* signifying a Twig or Ozier. I am not ignorant that some would have this Hill to be named *Viminalis*, from *Jupiter Vimineus*; whereas *Jupiter* himself was named *Vimineus* from this Hill, because he had here many Altars erected in the Honour of him. Both this Hill and *Jupiter*, were called *Fagutales*, from *sylva fagea*, *id est*, a cops of Beech-trees, which did grow thereupon. *Vid. Rosin. Antiq. lib. 1. cap. 9.*

CAP. 9.

De tribus Collibus adjectis.

THree other Hills there were, which in process of time were added unto the City; which partly because they were not included within the *Pomarium* so soon as the other, but chiefly because they were not of such note, therefore *Rome* retained the name *Septi-collis*. The first of those Hills was called *Collis Hortulorum*, *i. e.* the Hill of Gardens; so termed, because of the many Gardens near adjoyning. *d* Here was the *Cirque*, or the shew-place of the strumpet *Flora*, which made the people of *Rome* heir to those goods which she had gotten by prostituting her body to young Gentlemen, leaving also a certain sum of money to procure a celebration of her birth-day: which because of her infamy, the people shaming to do, they feigned her to be the Goddess of flowers, and that she must be first appeased by sports and plays, performed in the Honor of her, before the Trees and Fruits of the earth would prosper: *e* and that they might gain the better credit unto this their Fable, they add further, that she was once called *Chloris*, and was mar-

c Rosin. ant. l. 1. c. 11.

d Bar. Lat. in Verrin. Orac. 7.

e Lactant. de fal. relig. l. 2. c. 20.

ried

ried unto *Zephyrus*, from whom by way of dowry she received power over the flowers. The second was called *Janiculus*, from *Janus* that two-faced God: who, as Writers testifie, was there buried. It did lie beyond the River *Tiber*, and hath now changed its name, being called from the yellow sands, *Mons Aureus*, and through negligence of the Printer, *Monticulus*, id est, the Golden Mountain. The third was famous for the many Divinations and Prophecies uttered upon it, and thence was it named *Vaticanus*, from *Vaticinium*, a fore-telling. *f* It is at this time famous for a Library in it, called *Bibliotheca Vaticana*.

f Munst. in sua
Cosmog. l. 2.
c. 8.

C A P. 10.

De Foro Romano.

Forum hath divers acceptions: sometimes it is taken for a place of Negotiation, or Merchandising, which we call a *Market-place*: and being taken in this sence, it hath commonly some adjective joyned with it, as *Forum boarium*, the beast-market; *Forum piscarium*, the Fish-market; *Oliterium Forum*, the Herb-market: other times it is taken for any place, wheresoever the Chief Governor of a Province doth convocate his people together, there to give judgement according to the course in Law: whence a man is said, *Forum agere*, *g* when he keeps the *Affizes*; and *Forum indicere*, when he appointeth the place where the *Affizes* shall be kept. Thirdly, It is taken for a place where Controversies in Law are judicially determined, and Orations are had unto the people. At first, of this sort were only three, *Romannum*, *Julium*, and *Augustum*, as is clearly evidenced by that of *Martial*,

g Hubert. in
Cic. l. 3. ep.
fam. 6.

Aque erit in triplici par mihi nemo foro.

Afterward the number was increased to six distinct *Forums*. One called *Forum Julium*, because it was built by *Julius Caesar*. A second was added by *Octavius Augustus*, called therefore *Augusti Forum*. The third *Forum* was founded

founded by *Domitian* the *Emperor*: but by reason of his sudden death, *Nerva* had the finishing thereof. It had the name of *Forum Transitorium*, the *Transitory Forum*, because there was *Transitus*, i. e. a way or passage through it into three several Market-places. The same *Mural* called it sometimes *b Forum Palladium*, because in the middle thereof a Temple was erected in the Honor of *Minerva*. A fourth was added by the *Emperor Trajanus*, wherein was erected a stately Column or Pillar 140 cubits high, having all the noble exploits performed by *Trajanus* engraven in it: another was called *Salustii Forum*,* because *Salust* bought it with divers Gardens adjoining, which since have been called *Horti Salustiani*. The last *Forum*, which indeed was first built, and in all respects excelled the rest, was called *Forum Romanum*, and *Forum vetus*, or by way of excellency, the *Forum*, as if there were no other *Forum*: where we must understand, that as often as *Forum* is used in this latter sense, namely, for a pleading place, it is so used figuratively, by the figure *Synecdoche*: for in truth the pleading place, wherein Orations were had, was but one part of the *Forum Romanum*, namely, that *Chappel*, or great Building, which they called *Rostra*. i Round about this *Forum Romanum*, were built certain Trades-mens shops, which they termed *Tabernæ*, and also other stately buildings, called *Basilicæ Pauli*. Here was the *Comitium*, or Hall of Justice; the *Rostra*, id est, the Orators Pulpit; *Saturns* Sanctuary, or the common Treasure-house; and *Castors* Temple: of all which in their order.

b Lipsius de
magnitud.
Rom. l. 3 c. 7.

i Hen. Sal-
much in Pan-
ciro's lib. re-
rum deperit:
cap. de Basil.
& Taber.

CAP. II.

De Basilicis.

Basilicæ were upper-buildings, of great state and much cost, being supported with *Pilæ*, i. e. flat-sided Pillars; and having underneath them walks, much resembling our Cloysters, saving that the *Intercolumnia*, or space between.

tween the Pillars lay open unto the very ground. That they were upper-buildings, may be collected by the Custom of many men, which were wont to walk under these Basilical Buildings, and therefore were called *Sub-basilicani* by *Plinius*. The use of these were principally for the Judges to sit in judgement: but in their absence it was Lawful for Merchants to deal in their businesses. Those of chief note were three, thus named, *Pauli*, *Porcia*, and *Julia*.

CAP. 12.

De Comitium.

1 Sign. de jud.
1. c. 7.

Comitium I was, a part of the *Forum Romanum*, being a great large Hall of Justice, which for long time was open at the top, having no covering; and for that reason the assemblies were often dissolved, in rainy or unseasonable weather. In it stood the *Tribunal*, being a place erected up on high, in form of our Pulpits, but many degrees larger, and in the midst thereof, the *Sella Curulis*, id est, the Ivory Chair, from whence the Chief Magistrate administered Justice; other Inferior Magistrates sitting on Benches on each side, which were called *Subsellia*, because they were lower than the Tribunal. Those which sate upon these Benches had power *cognoscere*, but not *pronunciare*; much like to our Justices at Assises, which may examine or inform against a Malefactor, but not condemn him. Where we may observe the difference between *Comitium*, signifying such an Edifice or Building; and *Comitia*, signifying the Roman Assemblies: both being called à *coeundo*. This Hall was many times called by the name of *Puteal Libonis*. The reason of which name is rendered thus by some: That in this *Comitium*, *Albius Nevius* did once with a Razor cut in two a Whetstone, and in memory thereof, his Statue was erected, with a Hat upon his Head: for *Puteal* properly doth signify the Cover of a Well, but in a large acception it signi-

m Cael. Rhod.
1. 10. c. 17.

signifieth a broad-brimmed Hat, as *Calius Rhodiginus* noteth in the same place. *n Cicero* toucheth this: *Cotem* n Cic. de divinatz.
illam, & novaculam defossam in Comitio, supraque impos-
sum Puteal accepimus. But why it should be called *Puteal*
Libonis, is yet doubtful; except happily *Libo* was the first
 erecter of this Statue. That it was a common Court,
 and known place of Justice, *Horace* witnesseth: *Roscius*
orabat, sibi adesses ad puteal eras.

CAP. 13.

De Rostris.

NExt to the *Comitium* stood the *Rostra*, a goodly fair
 Edifice, in manner of the body of a Cathedral-
 Church: In it stood an Orators Pulpit, deckt and beau-
 tified with the stems of many Ships, which the *Romans*
 got from the people of *Antium*, in a memorable Battle
 upon the Sea: and hence from those Ship-Beaks, called
 in Latine *Rostra*, hath this place taken its name. It may be
 Englished, the great Oratory, or place of Common-Plea. o Hubert, in
 Cic. ep. lib. 8.
 ep. fam. 1.

CAP. 14.

De Templo Castoris.

ANother part of the *Forum* was a Sanctuary built in
 the Honor of *Castor* and *Pollux*: the reason thereof
 was, because they appeared unto the *Romans* in the *La-*
tine War, in the likeness of two Angels sent from Hea-
 ven to lead the *Roman* Army, and to assist the *Romans*
 against the *Latines*: who being vanquished, they sudden-
 ly were departed out of the field, none knowing how: and
 even in the same moment they appeared upon their
 sweating-Horses unto the *Roman* Citizens in the *Forum*,
 who taking them for Souldiers, demanded what news
 they brought home from the Camp; they replied, that
 the *Romans* were Conquerors: which news being deli-
 vered, they suddenly vanished, and were seen no more.

C

Upon

p Suet. in Jul.
Cæs.

Upon this occasion did *A. Posthumius*, being at that time Dictator, build a Temple in that place of the Forum, where they were seen, in Honor of them both. Although in the after-Ages, it had the name only of *Castors* Temple. Whence arose the jest of *M. Bibulus*, against his fellow-Consul *Julius Caesar*, saying, p it fared with him, as it did with *Pollux*, i. e. As this Temple which was erected in the honor of both the Brethren, carried the name only of *Castors* Temple; so the great expences in exhibiting shews in the time of their Consul-ship, though they were deeper on *Bibulus* his side, yet *Caesar* carried away all the thanks and credit. In so much, that the people being wont to subscribe the names of both Consuls at the end of their Deeds and Charters, for a Remembrance of the Year; that Year they wrote, Such a thing done, not *Bibulus* and *Caesar*, but *Julius* and *Caesar* being Consuls.

CAP. 15.

De Æde Saturni.

q Plutarch in
Publicola.

r Alex. Gen.
dier. l. 4. c. 15.

f Alex. Gen.
dier. l. 2. c. 2.

Saturns Sanctuary q was the Common Treasure-house, wherein the Subsidie-Money which the Commons paid unto the Treasurers, called *Questores*, was to be laid up: whereof divers conjecture diversly. *Alexander Neop.* r saith, that *Saturn* found out the use of brazen Money; and therefore this Temple might be thought the fittest place for the Treasury. *Plutarch* thinketh rather, that the making of the Treasury in that place, did allude to the integrity of the time wherein *Saturn* reigned, being the Worlds Golden Age. f But the most received opinion is, the strength of the place, whereby it was the safer from Thieves. The Temple, by reason of the use it was put unto, was called *Ærarium*, from *æs*, id est, Brass; which name now is common to all Treasure-houses; for that the first Money used by the Romans was of that metal, until the year of Rome, 485. (as *Pliny* wit-

Of the Chief parts of the City.

13

witnessth, lib. 3. cap. 33.) : Some are of opinion, that before the use of brass, they made money of leather ; whence *Numa Pompilius* is said to have given leather-money in a dol^e unto the people. Touching their order observed in the Treasury, we must understand that their care in providing against sudden dangers was such, that they laid aside the twentieth part of their receipts, which they r called *Aurum viresimarium*, *Incensimarium*, and *Cimiliar-ebium*, into an inner-Chamber, or more sacred room, named in Latine *Ærarium sanctius* s. We may read also of a third Treasury, called *Ærarium militare*, wherein *Augustus* had appointed that the twentieth part of certain Legacies should be laid up to defray charges in extraordinary Wars : where it lay so priviledged, that it was a Capital Crime to use any of it, but in extream and desperate necessity. Notwithstanding, howsoever it was used as a Treasure-House ; & yet divers Authors testifie that the Acts of their Senate, the Books of Records, together with such Books as were for their immeasurable bigness called *Libri Elephantini*, wherein all the names of their Citizens were registred, and also their Military Ensigns, were contained there. * And from those Statute-Books called *Tabule Publicæ*, this Treasury was also called *Tæbularium*, because they were laid up there.

g Alex. Gen. dier. l. 4. c. 13.

r Alex. Gen. dier. l. 2. c. 2.

/ Servius. l. 2. Virg. Georg.

t Alex. Gen. dier. l. 2. c. 2.

* Plutarch. in suis Problemat. vid. Franc. Sylviu in Catilinæ. 4.

CAP. 16.

De Campo Scelerato.

Campus Sceleratus, the field of Execution x lying within the City, joyned to the Gate *Collatina*. It was the place where the Vestal Nuns, if they were deflowred, suffered punishment after this manner. There a was made a Vault under the Earth, with a hole left open above, whereby one might go down ; and within there was a little couch with a burning Lamp, and a few Victuals, whether the defiled Votary was to be brought, through the

x Munster. in sua Cosm. g.

a Plutarch. in Numa.

Market-place in a Litter so closed up with thick leather, that her mournings might not be heard to the moving of pity. She being thus brought to the place of Execution, was let down by a Ladder into a hollow Cave, and the hole presently stopped. And the reason why they suffered such a kind of death, was, because they thought it not fit that she should be burnt with fire, which kept not the sacred fire with greater Sanctity: and it was thought unlawful to punish them by laying violent hands on them, because they had in former time served in so holy a function.

CAP 17.

De Campo Martio.

*b Rosini. ant.
l. 6. c. 11.*

THe *b Campus Martius*, otherwise called *Tiberinus*, (because it was near the River *Tibur*) was given unto the Roman people, by *Caia Tarraia*, a Vestal Virgin; but *Tarquinius Superbus*, the last King of Rome, did take it from the people, converting it to his own private use, insomuch that he sowed Corn there; which, when he was deposed, the Romans did cast into the River *Tiber*, judging it unfit that any man should reap any commodity from so holy a ground. In process of time the sheaves of Corn being stopped in a shallow ford of the River, became firm ground, and was called, *The Holy Island*, or *Æsculapius his Island*; and presently after the expulsion of *Tarquinius*, this *Campus Martius* was restored unto its former use. Besides the natural pleasantness of the place it self, it was beautified with many ornaments brought out of the *Capitol* (the *Capitol* being too full) as likewise with divers Images of well-deserving men. Hither did the younger sort of Romans come to exercise Chivalry, namely, the Horse-race, the Foot-race, Wrestling, Fencing, casting the Bowl, the Sledge, the Dart, using the Sling, the Bow, Vaulting, with such like; and upon this occasion it was dedicated to *Mars*, and called by *Strabo*, *The*

The Romans Great School of Defence. ^e The manner of ^c Cael. Rhod. Vaulting, was, in riding, to leap from one Horse-back ^{l. 21. c. 29, 30.} upon another; their custom being for their Horsemen in War, to lead a spare Horse in their Hands, besides that whercon they did ride, that when the one did sweat, they leaped upon the others back; à *desiliendo*, those Horses were called *Equi defultorii*: whence an unconstant, wavering and unsettled mind, which *Seneca* calleth *Volaticum ingenium*, others have called *Defultorium ingenium*. In this field were men of best Note burned when they died. Here were the Kings, and other Magistrates at first created. In this ^d field of *Mars*, also ^d *Servius* in *Bucol. Ecl. 1.* was a place at first railed, like a sheep-pen, called therefore *Ovilis*, or *Septa*; but afterwards it was mounted with Marble-stone, beautified with stately Walks and Galleries, and also with a Tribunal or Seat of Justice; within which precinct the people oftentimes assembled, to give their suffrages towards the Election of Magistrates. The means of ascending up unto these *Ovilis* was not by stairs, but by many Bridges made for that time; every Parish in the assembly of Parishes, and every Tribe or Ward in the assembly of the Tribes, and every Hundred in the assembly of Centuries, having his Bridge: whence this Proverb was occasion'd *De ponte deieciendus, id est*, he is to be debarred from giving his Voice. ^e These ^e *Ioan. Saxoni-* Bridges were not made over any River, but over the ^{us in Orat. pro} dry Land: whence men were said to cast be, *Non ut per-* ^{S. Roscio.} *rielisarentur de vita, sed ne suffragarentur in Comitium.*

CAP. 18.

De Circo Maximo.

AMongst other places where the Romans exhibited their Plays unto the People, the most remarkable was a great Cirque, or Shew-place, called in *Latine* *Circus Maximus*. It was a large piece of ground lying near that part of the *Aventine* Mount, where *Diana's*

na's Temple stood. It was built by *Tarquinius Priscus*, with divers Galleries round about it, from whence the Senators and Gentlemen of the City did behold the running with great Horses at Lists, the Fire-works, Tumbling, the Bayting and chasing of wild Beasts, &c. In former time, all did stand on the ground, being sheltered from the rain by the help of Boards upheld with forks, in manner of House-pentices: and this custom continued until the aforesaid *Tarquinius* erected those Galleries, called *Fori*, making thirty distinctions of them, allotting every Ward or Company their several quarters, all the seats being able to contain one hundred and fifty thousand parties. *f* Under these places were Cells or Vaults, where Women did prostitute their bodies, and would buy stolen goods; and for this reason *Horace* calleth it, *Fallacem circum*, i. e. the deceitful Shew-place. There was at one end of the Cirque certain barriers, i. e. places barr'd, or rail'd in, at which place the Horses began the race: and at the other end was the mark, whither the Horses ran: it was called in Latine *Mesa*, and the Barriers *Carceres*; à *coercendo*. Whence we say, à *carceribus ad metam*, i. e. from the beginning to the ending.

CAP. 19.

De Theatro.

g Joach. Camerar. in orat.
pro L. Flacco.
b Serv. l. 2.
Virg. Georg.

THe Theatre *g* hath his Name from the Greek Verb, *θεῖναι*, id est, to behold: because the people flocked thither, to behold Plays and Shews exhibited to them. The custom *b* first sprang from the Shepherds, who leading a contemplative life, were wont to compose Dialogues in Metre, and at their leisure to recite them under the trees pressed down in form of an Arbor; whence this Theatral term *σκινα* hath been derived from *σκιὰ* a shadow, but afterwards learned Poets composed *Comedies* and *Tragedies*, which were publicly acted in the City upon a Stage: and though at first it was counted infamous to frequent them, yet afterwards the Senators themselves, yea, the Empe-

ror, and all the Chief of *Rome* assembled thither. *i* Neither for a long continuance were there any Seats built, but Commons and Nobles, promiscuously one with another, all stood on the ground: insomuch that those which stood behind, raised up places with turfs of Earth, which gave the people occasion to call the place between those turfs and the scaffold, *Cavea, id est, a Cave or Den*: yea, the people that stood there, were so called from the place. Though the Theatre be now taken only for the Stage, yet then by it was understood the whole Room, where these Plaies were Acted: and it had divers parts; some proper to the Actors, some to the Spectators. To the Actors, first belonged the *Proscenium, id est, the House* whence the Players came: where they apparelled themselves; though sometimes it is taken for the Scaffold, or Stage it self. Secondly, the *Pulpitum, id est, the Stage, or Scaffold* upon which they Acted: and thirdly, the *Scena*, that is, the partition, which was commonly made of wood, not of hangings. Now that they might change their Scene, according to their pleasure, they made it *k Versailles, id est, so that with Engines it might upon the sudden be turned round, and so bring the Pictures of the other side into outward appearance: or otherwise Dutilleul, id est, so that by drawing aside of some waincot-shuttles (which before did hide the inward painting) a new Partition might seem to be put up: And I think, because those Shepherds did Act no more at a time, than one of our Scenes; hence have we distinguished our Plays into so many parts, which we call Scenes. The places which were proper to the Spectators, were distinguished according to their degree and Rank; for the remotest Benches were for the Commons, and called *Popularis*; the next for the Knights and Gentlemen of *Rome*, and called therefore *Equestris*, the others wherein the Senators did sit, were commonly called *Orchestra*. This may be collected out of *l Lipsius. m Cæl. Rhodigi-**

i Alex. Gen.
dier. L. 5. c. 19.

k Servius l. 3.
Virg. Georg.

l Lipsius de
amphit. c. 14.
m Cæl. Rhod.
to l. 8. c. 8.

to the Stage, where *Chorus* spake to the people at the end of every Act. Divers Authors are of *Cael. Rhod.* his Opinion, deriving the word *Orchestra*, from the Greek *ὀρχήστρις* to dance; but it seemeth more probable to have been a peculiar place, allotted for the Senators: *Ju. Sat. 3.*

Aequales habitis illic, similemque videbis

Orchestra, & populum — id est, optimates & plebem.

The whole Building made for entertainment of the Spectators, resembled a Triangle or wedge, sharp towards the Stage, and broad behind; whence the whole was denoted by the name *Cuneus*: when *Cuneus* signified any particular place about the Theatre, then by it we are to understand that which formerly we called *Popularia*, the

* *Cael. Rhod.*
lib. 8. c. 8.

place for the meaner sort of people: whence when we would point out a base and ignoble person, *Inter cuneos residere distamus.* There was also another kind of scaffold, built quite round, made as it were of two Theatres joyn'd together; it was called *Amphibeatrum*, and differ'd

* *Turneb. ad-*
vers. lib. 5. c. 5.

from the Theatre, only as the full Moon doth from the half, or a compleat rundle from a semi-Circle; it resembled an Egg. Upon this kind of Scaffold did the Masters of Defence play their Prizes, and wild Beasts were baited.

† *Hosp. de*
orig. fest.

‡ *In Amphibeatro gladiatorii ludi, & conclusarum ferarum venationes exhibebantur.* The Amphibeatre it

§ *Plin. de Am-*
phib. c. 8. 3

self, in the judgement of *Lipsius* was termed *Cavea*, ab *interiore parte que concava erat*; and *Arena*, because it was strewed with gravel and sand, that the blood of such as were slain in the place, might not make the place too slippery for the Combatants. Hence cometh that Phrase, *In arenam descendere*, to go into the field; and the Combatants were thence called *Arenarii*. Here we must note, that howsoever the Amphibeatre was strewed commonly with common and ordinary gravel, yet sometimes in their extraordinary Shews that gravel was covered; and as it were new coated, with the scrapings and dust of some extraordinary stones, to add the greater lustre unto it: thus much † *Pliny* intimateth, *Invenere &*

alium

alium usum ejus lapidis, in ramens quoque Circum maximum sternendi, ut si in commendatione & candor, &c. Again, sometimes the hollow places or dens under the *Amphitheatre*, in which the wild beasts were kept, and likewise men to be committed with wild beasts, out of which these were let loose by the lifting up of Trap-doors to be hunted or baited upon the *Amphitheatre*, were called *Caves*. For we must know that the *Amphitheatre* was full of hollow passages for many reasons, as for the convenient keeping of wild beasts and bestiaries, so sometime for the better conveying of waters thither, by the means whereof *f* real Ships and Sea-skirmishes were oftentimes exhibited upon the *Amphitheatre*.

f Sueton. in Domitian

CAP. 20.

Moreover, for the better understanding of Classical Authors, it will not be impertinent to point at the general names by which the Religious places were called, and to declare the proper acception of each name: the names being these, *Templum, Fanum, Delubrum, Aedes sacra, Pulvinar, Sacrum, Lucus, Scrobiculus, Ara, Altare, Focus*.

De Templo.

This word *Templum* doth sometimes signifie those spaces and regions in the Air and Earth, which the *Augures* did quarter out with their crooked staff at their South-saying: sometimes it doth signifie a Sepulchre or Grave, *b* because in old time men did superstitiously pray and worship at the Tombs and Monuments of their deceased friends, as if it had been in *Temples* or *Churches*; and in this sense may *Virgil* be understood.

c *Præterea fuit antiquo de marmore Templum*

Conjugis antiqui

Most commonly it doth signifie a *Church* or *Temple*; in which sense as often as it is used, it is *d* said *a templando*, from beholding; because when we be in the Church, by lifting up our hearts by a divine contemplation, we do as it were behold the great Majesty of God.

a Rosin. ant. l. 2. c. 2.

b Lilius Gyrd. de diis gentil synag. 17.

c Lib. 4. *Eneid.* id. v. 457.

d Franc. Syv. in orat. pro L. Muræ.

De Fano.

It is also called *Fanum à fando*, from speaking; not from the speaking of the Priest, but because the people do there speak unto God, and God again to the people.

f Turneb. ad.
ver. l. 3. c. 9.

Some are of opinion, that *Fanum* in propriety of speech, signifieth the *Churchyard*, or Court before the Temple; *Templum* signifieth the Edifice or Church built.

De Delubro.

Thirdly, a Church was called *Delubrum Synecdochicis*; because it was the principal part of the Church, namely the place where the Idol-god stood; and it was called *Delubrum* from *Dens*; *g* as we call the place where the candle is put, *candelabrum* from *candela*. As concerning the outward form of the Churches, some were uncovered, because they counted it an hainous matter to see those Gods confined under a roof, whose doing good consisted in being abroad; other some covered; some round, some otherwise; but within they much resembled our great Churches. They had their *pronaon*, or *Church-porch*, whereabouts they were wont to have the Image of the beast *Sphinx*, which was so famous for his obscure riddles; so that by this Image was signified, that the Oracles of the Gods, which were treated of within the Church, were dark and mystical. They had certain walks on each side of the *body of the Church*, which they called *porticus*; and in these places it was lawful for them to merchandize, make bargains, or confer of any worldly business; as likewise, in the *Basilica*, or *Body* it self. But their *Quire*, called *Chorus*, was counted a more holy place, set apart only for Divine service. The manner of hallowing it, was as followeth. *b* When the place where the Temple should be built, had been appointed by the *Augurs* (which appointing, or determining the place they called *Effari temple*, & *sistere Fana*) then did the party, which formerly in time of need, upon condition of help from the Gods, had vowed a Temple, call together the *Auspices*, which should direct him in what form

g Rosin. ant.
l. 2. c. 9.

b Rosin. ib.

Of the Chief parts of the City.

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form the Temple should be built; which being known, certain ribbands and fillets were drawn about the *area* or plot of ground, with Flowers and Garlands strewed underneath, as it was probable, to distinguish the limits of this ground now to be hallowed. Then certain Souldiers marched in with boughs in their hands, and after followed Vestal Nuns, leading young Boys and Maids in their hands, who sprinkled the place with holy water. After this followed the *Prator*, some *Pontife* going before, who after the *area* had been purged by leading round about it a Sow, a Ram, and a Bull, sacrificed them; and their entrails being laid upon a turf, the *Prator* offered up prayers unto the Gods, that they would bless those holy places, which good men intended to dedicate unto them. This being done, the *Prator* touched certain ropes, wherewith a great stone, being the first of the foundation, was tyed; together with that, other chief Magistrates, Priests, and all sorts of people did help to pluck that stone, and let it down into its place, casting in wedges of gold and silver, which had never been purified, or tried in the fire. These ceremonies being ended, the *Aruspex* pronounced with a loud voice, saying; *Ne temeretur opus, saxo aurove in aliud destinato id est*, Let not this work be unhallowed, by converting this stone or gold into any other use.

De Aedis sacra.

Fourthly, a Church was called *Aedis sacra*, an holy house, because of the sacrifices, prayers, and other holy exercises performed therein. Although (as *Gellius* hath long since observed), every holy house was not a Church. For the proper note of distinction between a Church and a Religious house was this, that a Church, beside that it was dedicated unto some God, it was also hallowed by the *Augures*, without which hallowing the edifice was not called a Church, but a Religious house, of which sort was the Vestal Nunnery, and the common

Barthol. Li-
tomus in Phi-
lippic 4. am.

Treasury, called *Edes Sauri*. We may add hereunto this word *Pulvinar*, i which doth often signifie a Church: the reason being taken from a custom amongst the *Painims*, who were wont in their Churches to make certain beds in honor of their Gods, and those beds they called *Pulvinaria*, from *Pulvis*, because they were filled with dust or chaff.

De Sacraia.

& Cic. pro Mi-
lone,
/ Fran. Syl-
vius in orat.
pro L. Muræ.

Sometimes & *Sacrarium* signifieth a Temple, though properly it signifieth a Sextry or Vestry, nempe *Sacrarum repositoryum*.

De Lucis.

Near unto divers Temples stood certain Groves dedicated to some of the Gods: they were called in Latine *Luci*, à non *luendo*, as divers say, by the figure *Aniphrasis*. But others are of a contrary opinion, giving it that name, because of the exceeding light it had in the night-time, by reason of the sacrifices there burnt.

De Scrobiculo, Ara, & Altari.

The places upon which they sacrificed either in their Religious houses, or their Groves, were of three sorts: which we in English term Altars: but the *Romans* distinguished them by three several names, *Scrobiculus*, *Ara*, & *Altare*.

De Scrobiculo.

in Alex. Gen-
dier, l. 5. c. 16.

in *Scrobiculus* was a furrow, or pit containing an Altar in it, into which they poured down the blood of the beast slain, together with milk, honey, and wine, when they sacrificed to an infernal God.

De Ara.

The second kind of Altar was called *Ara*, either *ab ar-
dendo*, because their sacrifices were burned upon it; or from their imprecations used at that time: which in Greek they called *ἀσβ*. It was made four-square, not very high from the ground, or as some say, close to the ground: and upon this they sacrificed unto the terrestrial Gods, laying a turf of grass on the Altar: and this

gave

gave Virgil occasion to call them *Aras graminae*, id est, *Vir. Æo. 12^o*
grassie Altars.

De Altari.

The third sort was called *Altare*, either because it was exalted, and lifted up somewhat high from the ground; or because he that sacrificed (by reason the Altar was so high) was constrained to lift up his hands in *altum*, on high: and upon this they sacrificed unto their Celestial Gods only.

o Serv. in Bo-
colic. eclog. 5.

De Foco.

Focus is a general name, signifying any of these Altars: so called à *fovendo*: because, as *Servius* hath observed, that is *focus*, *quicquid fovit ignem*, five *ara sit*, five *quicquid alind in quo ignis fovetur*. But in strict propriety of speech, it is taken for that Altar, on which they sacrificed to their domestick Gods, such as were their *Penates* or *Lares*; as it appeareth by *Plautus*, p

p Anular. 26.
c. Sc. 5.

Hæ imponuntur in focum nostro Laræ;

Ut fortunatas faciat gnata nuptias.

Whence it seeth that Adage, *Pro aris & focis certare*, founding as much as to fight for the defence of Religion and ones private estate: or (as our English proverb is) for God and our Country: the proverb being in its original, part of the oath that was administered unto the *Roman* Souldiers; and thus it is expounded by *q Tur-*
nebu.

q Turneb. adv.
l. 10. c. 7.

LIBI



LIB. I. SECT. II.

The general Divisions of the
ROMAN PEOPLE.

CAP. I.

De populo Romano, & ejus prima divisione.

THUS having premised a short Treatise concerning the first scituation of *Rome*, and the most remarkable parts thereof, I purpose to proceed to the inhabitants, which Antiquity hath styled Citizens of *Rome*. And *Erasmus* rather describing a *Roman* than defining him, saith, a *Roman* was grave in his conversation, severe to his judgement, constant in his purpose: Whence *Cicero* in his Epistles often used this phrase, *more Romano*, for *ex animo*, *id est*, unfeignedly. a *Sigonius* rendring the definition of a *Roman* Citizen, averreth, that no man is *lege optima*, *id est*, in full and compleat manner a Citizen of *Rome*, but he which hath his habitation there, which is incorporated into a Tribe, and which is made capable of City-preferments. By the first particle, those which they term *Municipes*; by the second, those which they call *Inquilini*; and by the third, those which they call *Libertini*, are in a manner disfranchised. But whereas *Sigonius* saith, that they must have their habitation at *Rome*, he would not be so understood, as if a *Roman* Citizen might not remove his habitation

¶ Sig. de jur.
Rom. l. i. c. i.

habitation to any other Country: For, saith he, a Roman Citizen may be as long absent from Rome, and the fields belonging to Rome, as he pleases, so that he suffer himself to be sessed and taxed in common with others toward the subsidy-payments, and denyeth to be incorporate into another City. For *T. Pomponius* was a true Citizen of Rome, though he dwelt at *Athens*. The Roman Citizens being by these priviledges, as by a more proper and peculiar character, distinguished from other people: and being planted in the City according to the appointment of *Romulus* their King, it seemed good unto him to divide them into *6 Tribes*, not taking the note of distinction only from the divers places they then inhabited, as we read that *Servius* the sixth King of Rome did, making therefore four Tribes *towns*, local, namely *Suburbanam*, *Palatinam*, *Collinam*, and *Esquilinam*, (which number of local Tribes in process of time increased unto the number of 35.) but dividing them according to their several Nations, which at the first were *donati Civitate*, *id est*, made free Denizens of Rome: and (they being in number three. 1. The *Sabines*, which were named *Tatenses*, from their King *Tatius*. 2. The *Albanes*, called *Rhamnenses*, from *Romulus*. 3. Other Nations, promiscuously flocking out of other Countries to the Roman *Astylum* placed in a Grove called in Latine *Lucus*, which gave *Romulus* an occasion to name them *Luceres*;) he made in all three Tribes *gens*, or national. After that *Romulus* had thus divided the whole body of the Romans into three Tribes, he then subdivided each Tribe into ten lesser numbers, which he called *Curis*, or Parishes: and then followed five other divisions in respect of their different degrees and callings: of which in their several order.

b Sig. de jur.
Rom. l. 1. c. 3.

CAP. 2.

De prima divisione Romanorum, in Senatores five Patres, Patricios five Patronos, & Plebeios five Clientes.

THE first division of the Romans in respect of their degree and place, was this: The elder, wealthier, and gravest sort of Romans, were called sometime *Patricii*, either because of their age or gravity; or because they had many children (for great priviledges were granted unto fathers of three children;) and sometimes *Patroni*, because they were as Patrons and Fathers in helping and assisting the causes of the common people seeking to them. The younger, poorer, and simpler sort were called, as they had relation to the *Patricii*, *Plebeii*, *id est*, the Commons; as they had relation to their *Patroni*, they were named *Clientes*, *id est*, Clients: between whom there was such a mutual and reciprocal intercourse of love and duty, that as the *Patroni* were ready to protect their Clients, so the *Clientes* were bound with all faithfulness to cleave unto their Patrons: and that not only to credit them with their attendance in publick Assemblies, but to disburse out of their own purses towards the bestowing of their daughters, the paying of publick mulcts, the giving of largesses in suing for offices, &c. Neither was it lawful for either of them to inform, to depose, to give their voices, or to side with adversaries one against another, without the guilt of treason; for which crime of treason they were *diis inferni devoti*, i.e. cursed to hell, and the Law gave liberty for any man to kill them. Out of the *Patricii* did *Romulus* elect 100 Counsellors to assist him in determining matters concerning the Common-weal: to these did *Romulus* after add another 100, and *Tarquinius Priscus*, as divers Authors testifie, made them a compleat 300, which they called *Patres*, or *Senatores*, and their sons *Patricii*. But in process of time the

c Lazius de
Repub. Rom.
L. 12. c. 3.

the Commons also were eligible into a Senators place. Some say, that *Tarquinius Priscus* added the second hundred to the Senate out of the Commons, who were called *d Senatores minorum Gentium, id est, Senators of the lower house*. *Brutus* added the last hundred, and made them 300. at what time they began to be called *Patres conscripti*. And this accordeth with *Johannes Rosa* in his Epitome to the Roman History, in his *Ch. de Regibus Romanis*: where he saith, that *Tarquinius Priscus* did double the number of the Senators: And likewise *e Alexander Neop.* saith, that *Brutus* made them compleat 300.

d Mert. Philericus in Cic. l. 1. ep. fam. 1.

e Alex. Gen. dier. l. 9. c. 2.

C A P. 3.

De secunda divisione Romanorum in tres ordines: Senatorium, Equestrem, Popularem, seu Plebeium.

After that through *Tarquinius Superbus* his Tyranny, the very name of a King became odious to the Romans; not only the present King was exiled, but the Authority of a King ever afterward detested and perpetually abrogated; so that the Office which was before Monarchical, then was divided between two, called *Consuls*: Neither were they admitted for any longer space than one year. At which time of change the Romans were divided into three orders or Ranges. 1. Into *Senators*, of whom before. 2. Into *Gentlemen*, called of the Romans *Ordo Equestris*: by which we do not understand those 300. *Celeres, id est, Pensioners*, called sometimes *Equires*, for that was a place of service, this a title and token of Gentility; who although they were inferior to the chief Senate, yet they were of great esteem among the Romans; and although they might not wear the same Robe as the Senators did, namely the *Laticlavium*, or garment bestudded with flourishings of purple silk in manner of broad nails-heads: yet they might wear the *Angusticlavium*, a garment different from the former.

f Rosin. ant. l. 1. c. 17.

g Lios. de magnitud. Rom. l. 1. dial. 5.
 h Alex. Gen. dier. l. 2. c. 29.
 i Suet. in August.
 k Plin. lib. 33. c. 22.

only in this, because the purple studs wherewith it was purfled, was narrow, and not so large as the *Laticlavium*. They also at the time of their Election received from the *Censors* a horse called by them *Equus publicus*, because of the yearly allowance out of the common treasury to keep him; it was also called *Equus militaris*, because of their service in war (they having their Horses kept as well in peace as war.) They received also a Gold Ring, *b* whereby they were distinguished from the populace: for it was not lawful for any to wear a Gold Ring under the degree of a Senator, or Gentleman. The estimation and value of a Senators estate i until *Augustus* his time, was *octingenta sestertia*; that is, 6000*l*. *k* of a Gentlemans estate it was, *quadringenta sestertia*, *id est*, of our English money 3000 *l*. The third order or degree in the Roman Common-wealth, was *Populus*, the Populacy, or Commons, which should exercise trading, manure the ground, look unto the cattle, &c. Where by the way we must understand, that the baser sort of the *Romans* which did wander up and down to and fro, not settling themselves to any vocation, were not contained within this division; for unto them there was no name vouchsafed, but according to the Poet, they were *sine nomine turba*, or as *Livy* saith, *ignota capita*, men of no account, and therefore of no name.

C A P. 4.

De tertiâ divisione in Nobiles, Novos & Ignobiles.

THis division was taken from the right or priviledge of having Images; for they were accounted Noble-men, which had the Image of their Predecessors: Those which had their own Images only, were called *Novi*, that is, late quoined Nobles or upstarts. *Salust* useth this word often in the disgrace of *Tully*, calling him *Novum & reptisium civem*, one that lately crept into the City. The third sort, called *Ignobiles*, were those that had no Images, neither

The general divisions of the Roman People.

neither of their Predecessors, nor of themselves, Before we proceed, we must understand, that it was not lawful for who would to have his own Image if he so desired; for none might be thus privileged but those alone, to whom the right of riding in a Curule chair belonged; and to these the right of Images was permitted, as well for the credit of their house, as to incite others to the like achievements, when they would consider the divers ceremonies used unto these Images in an honourable remembrance of those whom they did represent. Whence it followeth, that *Jus Nobilitatis* is nothing else but *Jus Imaginis*: Inasmuch that this word *Imago* doth sometimes signifie Nobility; and the right of having Images with them, was the same as the right of having Arms with us, *m* The Superstitious conceit which the Romans had of these Images was such, that upon festival days, and all occasions of joy and mirth, those Images should be beautified and adorned with garlands and flowers; upon occasion of grief and mourning, they would take from them all their ornaments, making them in a manner partake of their mourning. Some they kept in private Closets, *n* others they exposed to the publick view of passengers, placing them in the gates of their houses, together with the Swords, Targets, Helmets, Ship-beaks, and such other spoils as formerly they had taken from their enemies; *o* which it was not lawful for any, though they bought the house, so much as to deface. Yea, they were so annexed to the freehold, that they passed alwayes in the conveyance of the house. The matter of which they were commonly made, was Wax, as that of *Juvenal* doth sufficiently witness,

l Sig. de jur.
Rom. l. 2. c. 24.

m Alex. Gen.
dier. l. 5. c. 24.

n Barth. Lat. in
Verrin 7.

o Plin. 25. 1.

p Juv. Sat. 8.

p *Tota licet veteres exornent undiq; cere
Atria, nobilitas sola est atq; unica virtus.*

Again, we may not think, that they made in wax a compleat statue, or of a full portraicture of the whole body, but only from the shoulders upward.

CAP. 5.

De quarta divisione Romanorum in Optimates & Populares.

q Cic. pro
Sexio.

Geor. Meru-
la in orat. pro
Ligario.

THIS fourth division of the *Romans* hath been occasioned through the faction and siding of the Citizens. Those (according to the description of *q Tully*) were *Optimates*, *id est*, the best Citizens, who desired their actions might be liked and approved by the better sort: Those *Populares*, *id est*, popular, who through desire of vain glory, would not consider so much what was most right, as what should be most pleasing unto the populary: So that here by this word *Popular*, we understand not the Commons, as formerly we did, but be he Senator, Gentleman, or inferior, if he do more desire that which shall be applauded by the major part, than that which shall be approved by the better part, him the *Romans* called *Popular*, *id est*, such a one, that preferreth the popular applause before the right.

CAP. 6.

De quinta & ultima divisione Romanorum, in Libertos, Libertinos, & Inguenos: Item de Manumissione.

THE difference of the freedoms in the City of *Rome*, hath given occasion of this division: for he or she that had served as an *Apprentice*, and afterward was manumised, was named *Libertus*, or *Liberta*. The son whose father and mother were once Apprentices, was called *Libertinus*; but that son whose father and mother were both *Libertines*, or both free-born, if yea whose mother only was free, was called *Ingenuus*, *id est*, free-born. But after *Appius Cæus* his Censorship, then began *Liberti* and *Libertini* to signifie one and the same degree of freedom: so that *Liberti* and *Libertini* were taken for those which served

/ Justin. inst.
l. 1. tit. de in-
geruis, vid.
Franc. Sylv. in
Caillin. 4.

served for their freedom; and *Ingenii*, were taken for those which were free-born, whether their Parents were *Liberti*, or *Libertini*. Here is occasion given us to consider the manner of their freedom, and such ceremonies which belonged thereunto. The freedom of the City of Rome was three ways obtained; 1. By Birth, both, or at least one of the parents being free; and such were called *Cives originarii*. 2. By Gift and cooptation, when the freedom was bestowed on any stranger, or Nation; and they were termed *Civitate donati*; and so we read that *Cæsar* took in whole Nations into the freedom. Lastly, by Manumission, which was thus: when as the servant was presented by his Master before the *Consul* or *Prætor*, the Master laying his hand upon his servants head, used this form of words, *Hunc liberum esse volo*; and with that turning his servant round, and giving him a cuff on the ear, he did *mittere servum è manu*: the *Prætor* then laying a certain wand or rod called *vin-*
dicta upon the servants head, replied in this manner, *Dico eum liberum esse more Quiritium*. Then the *Lictor* or Sergeant taking the wand, did strike therewith the servant on the head, and with his hand struck him on the face, and gave him a push on the back, and after this he was registered for a free-man. Moreover, the servant having his head shaven purposely at that time, received a Cap as a token of liberty; whence *ad pileum vocare aliquem*, is to set one at liberty, as likewise *Vindicta liberare*. u According to *Tertullian*, at this time of their Manumission the servants received from their Masters a white garment, a Gold Ring, and a new name added unto their former. Whose authority if we admit, then the having of three names among the Romans was rather a sign of Freedom, than of Nobility. And that of *Juvenal*,

t P. Ramus in
 orat. pro C.
 Rabitio.

u Tert. de
 rebur. carn.

Tanquam habeas tria nomina

is not to be expounded, as if you were a noble man, but, as if you were a free-man. Here we may also consider the two several kinds of servants; the first were called *servi*,

and

α Dior. Hal-
car. l. 4.

γ Sig. de jur.
Rom. l. 1. c. 31.

ζ Mic. Toxita
in orat. pro
P. Quin. io.

α Fr. Syl. in
ep. virorum
Illust. l. 1. ep. 6.
β V. d. Cael.
Rhod. l. 12.
c. 20.
It A. Gel. l. 2.
c. 21.

and they could never attain to any freedom, without the consent of their master. α For those that were thus *servi*, were commonly captives, either bestowed as a reward upon this or that Souldier, or bought *sub corona*, or of other Citizens that had gotten them one of these two former ways. The second were called properly γ *nexi & additi*, because though they were free, yet by reason of their debt, *addicebantur*, that is, they were delivered up unto their Creditors by the *Prator* to work out the debt, so that after the payment thereof, either by mony or work, they did recover their liberty; whence they were said & *nomina sua liberare*, when they paid the debt; as on the contrary they were said *nomina facere*, when they became in debt. And their creditors when they sued for the payment, were said *nomina exigere*; *nomen* in these and the like places signifying as much as *debitum* a debt, α because their creditors did use to write down their debtors names. β The manner of suing for their debts was as it followeth; The debt being confessed, thirty days were allowed the debtor for the payment of the mony (those days of respite they called *dies justor*, *velut justitium quoddam*, id est, *juris inter eos interstitutionem & cessationem*.) The mony not paid, the debtor was delivered up as a servant to his creditor; yea, he was sometimes cast into prison; and unless the creditor were in the mean time compounded with, he remained three-score days in prison; and three Market-days one after the other being brought before the judge, the debt was solemnly proclaimed, and upon the third Market-day he was either sold to foreigners for a slave, or else was punished with death, each creditor being suffered, if he would, to cut a piece of his dead body in stead of payment,



LIB. II. SECT. I.

The general Divisions of the
ROMAN GODS.

CAP. I.

De Diis.

THough Satan had much blinded the hearts of men in old time, yet was not the darkness of their understanding so great, but that they did easily perceive, and therefore willingly acknowledge, that there was some Supream Governor, some first Mover, as *Aristotle* saith, some first Original of all goodness, as *Plato* teacheth. So that if any made this question, whether there were any God or no? he should be urged to confess the truth of that, rather *Argumento bacillino, quam Aristotelico*, rather with a good cudgel, than with any long dispute. But as they were most certain that there was a God, so were they again very blind in discerning the true God: and hence hath been invented such a tedious Catalogue of Gods, that (as *Varro* averreth) their number hath exceeded thirty thousand, and proved almost numberless. Wherefore I shall omit to make any distinct Treatise of the Gods, intending *obiter* and by the way to speak of them, which either

either had Priests, or Sacrifices instituted for them. Only I purpose to shew what is understood by those general distinctions of the Gods which divers Authors have used. *Tul. lib. 2. de legibus*, reduceth all unto three heads; Gods celestial, which *Varro* calleth select; and others have stiled Gods *Majorum Gentium*, i. e. of the greater nations, because their power was greater than the others.

a Alex. Gen.
dier. l. 6 c. 6.

a *Alexander Neopolitanus* saith, that twelve of these were the *Penates* which *Æneas* did take forth with him at the destruction of *Troy*. *Ovid* calleth them *Deos Nobiles*, noble Gods: others call them, *Deos consentes, quasi consentientes*, because *Jupiter* would do nothing without the consent of all. *Ennius* hath delivered them in this Distich,

*Juno, Vesta, Minerva, Ceres, Diana, Venus, Mars,
Mercurius, Jovis, Neptunus, Vulcanus, Apollo.*

b Serv. in lib.
Georgic.

The second sort of gods were called *b Semidei*, id est, demigods; also *Indigites*, id est, Gods adopted or canonized; men deified. For as the select Gods had possession of heaven by their own right: so these gods canonized, had it no otherwise than by right of donation; being therefore translated into heaven, because they lived as gods upon earth; but because their merit was inferior, and could not parallel the deserts of the Gods select, therefore they were called gods of inferior-note. *c Servius* would have these called *Divi*; observing this difference between *Dii* and *Divi*, that *Dii* should signifie those which had been gods perpetually, but *Divi* should signifie men made Gods; though commonly they are used one for another. Whence they called all their Emperors *Divi*, because for their deserts they thought them worthy to be gods. Now the *d* manner how a man became deified was this: The party to be canonized being dead, a pile of wood was made in form of a great Tent, or Tabernacle, with three other lesser Tabernacles, one on the top of another, the lowermost having in it dry combustible matter, but on the out-side adorned richly with Gold, Ivory, and painted Tables; hither the dead corps

c In *Æneid*.
lib. 5.

d Rosin. ant.
l. 3. c. 18. v. d.
Hospin. de
orig. Christ.
F. p. 21. vid.
exemplum hu-
jus consecrati-
onis in Severi
sepulchro. He-
rod. l. 4. p. 298.

corps was to be carryed with great solemnities; the Senate, the gentlemen, and all the chief Magistrates going before, with hymns, and songs, and all kinde of honour which was to be performed even to the Gods themselves. He being in this manner brought, and laid within the second tabernacle, the fire was kindled, by him who was to succeed in the Empire; for I find none canonized but only Emperors at their decease: forthwith at the kindling of the fire, a living Eagle was let fly from the top of the tabernacle, which was supposed to transport the soul of the dead body into heaven, insomuch that ever after he was canonized amongst the Gods, and worshipped as a God. And because they were thus turned into Gods, some have called them *Deos animales, quoniam anime humana verterentur in Deos*. This canonization was by the Greeks termed *θεοποίησις*, by the Latines *consecratio*. The third sort were those moral virtues, by which as by a ladder men climbed into heaven: and therefore did men style them Gods, because by their means men became deified. Late Writers perceiving that all the number of the Gods could not be reduced into these three heads, have added a fourth sort, which they call *Semones, quasi semi homines*, because ancient Writers, as *Rosinus* hath observed, called men *bemones*, not *homines*; in which point I shall willingly condescend unto him; but I shall leave to the judgement of others, to determine how justly he hath restrained the Gods *minorum gentium*, of the lesser Nations, only unto this last class: whereas my opinion is, that the demy gods, the moral virtues which have been styled Gods, and these *Semones*, may all of them be called Gods of the lesser Nations, standing in opposition with the Gods select, which are called Gods of the greater Nations. But that we may understand what is meant by these *Semones*, we must remember that by them are signified unto us not those Gods which do appertain to man himself, but to the necessities of mans living, his victuals, his cloathing,

serv. in Æn. lib. 3.

Ro. n. antiq. l. 2. c. 19.

and the like: not to the being of a man, but to the well-being of him; of which sort is *Salus Fortuna*, with others. We read likewise of other names given in common to divers Gods, not as to opposite members of a division, but as notes of distinction, drawn from the diversity of help, which they severally did afford unto man. In this respect some were called *Dii Patrii*, or *Tutelares*, such as had undertaken the protection of any City or Town: which opinion had sometimes been entertained by our English-men, and thence have risen these and the like speeches, *St. George* for *England*, *St. Denis* for *France*, *St. Patrick* for *Ireland*, &c. And the *Romans* being fully persuaded of the truth thereof, whensoever they went about to besiege any Town, by certain Enchantments or Spells they would first call out these Tutelar Gods; because they deemed it a matter impossible, to captivate the City, as long as these Gods were within; or at least they thought it a crime unexpiable to take the Gods as prisoners. And lest other Nations might use the same means in besieging *Rome*, therefore, as divers Authors have thought, the true Name of the Roman City was never known, lest thereby the Name of their Tutelar God might be defrased. Others, namely, the *Tyrians*, have tied fast their God *Hercules* with a Golden chain, thereby the more to secure themselves of his residence among them. Others have been called *Dii communes*, namely, *Mars*, *Bellona*, and *Victoria*, because in time of War they are not bound to either side; but sometime they help one side, and sometimes the other. And as they supposed some Gods to have the protection of whole Countries, so did they believe that others had the charge of particular men; and that as soon as any man was born, two spirits did presently accompany him invisibly, the one termed the *bonus Genius*, or good Angel, persuading him to that which should be good; the other called the *malus Genius*, or evil Angel, tempting to that which should be hurtful: insomuch that they thought all the actions

g. Solvius in
epist. vi. orum
illustrium.

h. Alex. Gen.
dier. l. 6. c. 4.

actions of men to be guided by these Angels, called *Genii*: so that if any misfortune befall a man, they would say that the matter was enterprised *Dixit iratus, id est*, our *Genius* being displeased with us. *Virgil* calleth these bad Angels *Manes*, as it appeareth by that, *Quisq; suos paritur manes, id est*, every man hath his evil Angel, *id est*, some misfortune. These *Genii* were thought to be a middle Essence between men and Gods: They are therefore called *Genii*, because they have the tuition over us so soon as we are *Geniti, i. e.* born. It is most certain that old Authors used *Geno* for *Gigno*; whence *i Tully* saith, *Si mihi filius genitur*; and *k Varro*, *Antequam genat filiquar*: although every place had also his *Genius*, as hereafter shall appear. This opinion was the more confirmed by a vision which appeared unto *i Brutus* in *Asia* near unto the time of his death: for *Brutus* watching upon a certain night in his Pavilion, the candle being near spent, saw a fierce tragical person appear unto him, somewhat bigger than a man; and he presently, being of an undaunted spirit, demanded whether he were a God or a man? To whom the vision answered, *Brutus*, I am thy evil *Genius* which haunteth thee: thou shalt see me at the City *Philippi* again: and the same vision appeared unto him, as he was fighting at *Philippi*, which was the last fight that ever he fought. And because *Juno* was wont to be invocated in the time of Childbirth, therefore many have thought that every man hath not his two Angels, but one Angel; and *Juno* to observe him: but it is agreed upon by best Authors that as the Angels or Spirits which did attend men were termed *Genii*; so those which guarded women were termed *Junones*. This *Genius*, as often as he is understood for the good or evil Angel, which hath charge of a mans body, is painted in form of a man, as we read did appear to *Brutus*; though sometime he is painted as a young boy, sometimes as an old decrepit man, but always with a crown of plane-tree, which therefore was called *Genialis arbor*: in the right hand he held a thistle over an olive

i Cic. l. 2. de

orat.

k Varro Rei

Rust. l. 1. c. 3. l.

Plut. in Brut.

m Rosin. ant.

l. 3. c. 14.

garnished with flowers; in the left he held a scourge hanging down. The sacrifice that was performed unto the *Genius* was wine, and flowers: whereupon (as if by wine and fragrant odours, were signified all kind of pleasures) certain proverbial speeches have been occasioned; as when we see a man given much to his pleasure, and dainty feeding, we say he doth *indulgers genius*, i. e. pamper or make much of his *Genius*: on the contrary, he that is abstemious, and debarreth himself of his pleasure, and dainty feeding, is said *defraudare Genium*, to defraud his *Genius*: and *genialis* signifieth jocund or pleasant. It was also the custom after meals to have a cup pass round the Table, much like unto our *poculum ebarrisatis*, and it was called *poculum boni Genii*. The Grecians had a like custom, whence that cup was called by them, *αἰνῶν ἀγαθὸν δαίμων*. But the reason why they would not sacrifice unto their *Genius* by killing some host, as they did to their other Gods, was, because they judged it unfit to deprive any creature of his life upon that day, when they first began their life (for this sacrifice was performed yearly by every one upon his birthday.) Horace notwithstanding doth more than intimate the killing of a young pig in that sacrifice.

cras Genium mero

Placabit, & porco bimestri. Hor. lib. 3. Od. 17.

The other *Genius* which is supposed to have chief power over high ways and places, being therefore called *Genius loci*, was pictured in form of a Snake, in which form Virgil feigned him to have appeared to *Aeneas*, when he performed the funeral-rites due unto his Father *Anchises*, *Aeneid*. l. 5.

Aditis cum lubricis anguis ab imis

Septem ingens gyros, septena volumina transi.

And Persius,

Pinge duas angues, pueri, sacer est locus, extra

Miise, id est, duos Genios.

Another sort of Gods was supposed to have the keeping
of

a Vil. Erasim.

adag.

a Cael. Rhod.

L. 28. c. 6.

of mens houses : p which they painted in form of a Dog, because those to whom the charge of houses is committed ought to resemble Dogs, that is, to seem fierce and angry towards strangers, but gentle and kind to those of the household. Other properties wherein these *Lares* do resemble Dogs, are recited by *Ovid. Fast. 5.*

pFranc. Sylv
in orat. pro
Sext. Rosc.
Am.

Servat uterq; domum, domino quoq; fidus uterq; est,

Compita grata Deo, compita grata cani :

Exigitant & lar, & turba Dianis fures,

Pervigilantq; Lares, pervigilantq; canes.

They were named *Lares*, and because of the charge they had over mens houses, this word *Lar* is sundry times taken for an house it self, as *parvo sub lare, Horat.* in a little Cottage : *homo incerti laris, id est,* a man that hath no house to dwell in, *Sen. in Mid.* And the custom in sacrificing unto them, was to eat up all whatsoever was left at the offering, for they thought it an heinous matter to send any of that sacrifice abroad, either among their friends, or the poor : and thereupon when we see a glutton leave nothing in the platter, not so much as the courtier-morsel, we say *Lari sacrificat, id est,* he sacrificeth to his household-god.

LIB.



LIB. II. SECT. II.

*Of the Roman Priests, with some
particular Gods.*

F*Annus*, the ancientest of all the Kings in *Italy*, was the first that brought any form of Religion into *Italy*. He consecrated Groves, gave names unto Cities, erected Temples, ordained sacrifices, &c. From whom the Churches, as some say, were named *Fana*. But after *Faunus*, *Evander* coming out of *Arcadia*, and afterwards being King of *Latium*, he instituted and appointed many other Ceremonies, which before were unknown to the Latines. After him *Aeneas* coming from *Troy*, taught many of the *Trojan* Ceremonies: by whose examples *Romulus* and *Numa* were incited to add many other kinds of holy Rites, and so at length reduced their whole Religion into a certain order, especially *Numa*, who, that he might gain the more credit and authority to his new-invented superstitions, feigned that he had conference about them every night with the Goddess *Egeria*. My intent therefore is, to speak first of the Gods in whose honour these holy Rites were performed, and then to descend unto the Priests, which were to perform them, shewing withall the Ceremonies they used in the performance.

CAP. V.

De Pane Lyceo, five Juno: de Lupercis

& Lupercalibus.

PAN was supposed to be the God of the shepherds, and is thus described: he is pictured naked, having horns in likeness of the Sun-beams, a long beard, his face red like the clear air, in his breast the star *Nebis*, the nether part of his body rough, his feet like a Goat: in one hand he holdeth a Pipe, in the other a shepherds crook, and alwayes is imagined to laugh. *b* He was worshipped first in *Arcadia*, and there called the God *Pan Lycous*, but afterwards he was had in great esteem at *Rome*, and in the honour of him certain sacrifices & games called *Lupercalia* were solemnized by the Romans. *d* There he took the name *Imus*, or as some say *Junus*. Concerning the time when these sacrifices were to be performed, it was upon the unfortunate days of the moneth *February*, which hath his name *a februndo*, from purging: whence the feast or game is as a purification; though the Latine word signifieth as much as a feast of Wolves, in a memorial that *Romulus* and *Remus* were nursed by a she-wolf. This seemeth very probable, because the Priests, which were called *Luperci*, began their course at the foot of mount *Palatino*, called by the Romans, *Lupercal*, id est, the place where the wolf nursed *Romulus*. The ceremonies were these: the hoast being two Goats) was to be slain, and two Noble mens Sons were to be present, whose foreheads, being bloodied with the knives of them that had slain the Goats, by and by were to be dried up with wool dipped in milk. Then the young Boyes must laugh immediately after their foreheads were dry. That done, they cut the goat-skins, and made thongs of them, which they took in their hands, and ran with them all about the City stark naked (saying

they,

a S. iv. in
Virg. Ecl. 2.

b Feneft de
sacerd. c. 1.

c Fen. fl. li. 1.

d Pomponius
Latus de Sa-
cerd cap. de
Luper.
e Plurarch. in
Romulo

f Plutarch. in
Romulo.

they had a cloath before their privities) and so they struck with those thongs all they met in the way. The young wives did never thum them at all, but were well contented to be stricken with them; believing it helped them to be with childe, and also to be easily delivered. Moreover it is to be noted, that a Dog was sacrificed at this time, because there is a natural antipathy, or contrariety of nature, between the Dog and the Wolf: whereby *Romulus* thought to testifie his gratefulness unto the Wolf for her pains in nourishing him. The reason why the Priests ran up and down the streets naked, was, because that *Pan* the God of this sacrifice was painted naked. As the feast, so also the place from whence they came, and likewise the Priests had their names a *Lupa*, which signifieth a Wolf. Some Authors have observed three sorts of the *Luperci*; some called *Fabiani*, some *Quintiliani*, from *Fabius* and *Quintilius* their Governours: the third sort, which *g Rosinus* affirmeth to have been added in the honour of *Julius Caesar*, I cannot finde according to his quotation in *Suetonius*. But thus much *Suetonius* saith in *b* another place, namely, that *Augustus Caesar*, when he was chief Pontific, did restore these games again, being formerly abolished.

*g Roⁿ ant.
l. 3. c. 2.*

*b Sueton. in
August.*

C A P. 2.

De Cerere, & sacris ejus.

Ceres, otherwise called *Elessina*, was honoured first among the *Grecians*, afterward among the *Romans*, as a Goddess, which first taught men the skill of husbandry.

*Prima Ceres ferro mortales vertere terram
Instituit. Virg. Georg.*

Whence she is sometimes metonymicall taken for corn, as *Credenda Ceres arvis*, *Ovid*. It is seed-time. She is called *Ceres* i quasi *Ceres*, a gerendis frugibus, from bearing fruit: because, as some say, by *Ceres* is understood sometimes

*i Cic. l. 3. de
Nat. Deor.*

sometimes the earth it self; whence also *Αυκτήρ*, being the Greek name of *Ceres*, is said *quasi γῆ αυκτήρ*, i. e. the earth which is the common mother of us all. & She is painted in the habit of a Matron wearing a Garland of Corn, sometime sorrowful, with a lamp in her hand, as if she were seeking out her daughter *Proserpina* carried by *Pluto* into Hell: and sometime with a handful of Corn or Poppy-seed. Upon the fifth of the Kalends of April, the Romans were wont to perform sacrifices unto her, which they called *sacra Græca*, i. e. the Grecian sacrifices: as likewise they termed the chief woman which did perform them, *sacerdotem Græcam*, i. e. the Greek Ministress, because they were translated into Rome out of Greece by *Evander*. The time of their solemnities was at the dawning of the day, and the Priests, which were only women, ran up and down with lamps in their hands in manner of mad women; into whose Temple none that was guilty of any fault committed, might enter: whose mysteries were to be buried in silence, and by no means to be babbled abroad. And as it is to be supposed, that was the reason why all Wine was forbid in this sacrifice. So that hence we say *Cereris sacrificat*, he sacrifices to *Ceres*, when he makes a feast without Wine.

† Rosin. ant.
l. 2. c. 11.

† Plautus in
Aulularia.

C A P. 3.

De Potitiis, & Pinariis, Herculis sacerdotibus.

Hercules had an Altar erected in the memorial of him near unto *Tiber* by *Evander*, upon occasion of the Herdsmens complaint brought unto *Evander* of him, whom they accused to have slain their chief Herdsman *Cæus*, the History being thus: *Hercules* after his conquest over *Geryon*, brought away with him certain goodly Oxen, and as well to rest himself, as to pasture his Oxen, he laid him down to sleep in a green field near the River *Tiber*: In the mean while a certain Herdsman called *Cæus*, who hapned to come that way, and perceiving

in Serv. Æn.
l. 8.

Hercules to be in a sound sleep, he stole away two of his Oxen, which he hid in a Cave or hollow Rock, pulling them in by the tail backward, thinking that *Hercules* when he should look his Oxen, and see the print of their footsteps, would easily believe that his Oxen had rather gone out from the Rock than into it, as indeed he did for a time believe: but afterwards by the bellowing of the Oxen within, answering their fellows without, *Hercules* entred the Rock, and finding the Thief *Cacus* there with his Oxen, he killed him; by reason of which murder he was brought before *Evander*: and after a while known to be the *Hercules* of whom the Prophetess *Garmen* had foretold unto *Evander*, that he should be a God, whereupon *Evander* presently saluted him by the name of *Hercules* the Son of *Jupiter*; and in honour of him caused an Altar to be built there in that place: upon which yearly was to be offered up an Heifer which had never born yoke; and that this Sacrifice might be had in the more esteem, two Noblemen well stricken in years, and of good repute among the Romans, one of them being called *Potitius*, and the other *Pinarius*, were appointed as the Priests to perform these Sacrifices; from whom ever after *Hercules* his Priests were called *Potitii* and *Pinarii*. Where by the way we must observe that *Pinarius* was not the surname of this Nobleman, but a name added unto him, intimating his and his successors punishment, for not coming soon enough according to the time appointed by *Hercules*. For as divers writers testifie, the entrails of the beast were almost eaten up by the family of *Potitius*, before *Pinarius* and his family came, and in punishment of their negligence *Hercules* enjoined the *Pinarii* never after to eat of the entrails, giving them this name *Pinarii* at that time, from the Greek word *pinis*, which signifieth hunger.

2 Ser. 2a.

CAP. 4.

De Fratibus Arvalibus.

THis Colledge or Company of Roman Priests may be Englished the *Arval fraternity*; the number of them being twelve, eleven of them natural Brothers, sons to *Acca Laurentia*, *Romulus* his Foster-Mother; & for which respect *Romulus* yielded himself her adopted son, instituting this Order in the honour of *Ceres* and *Bacchus*, for the plenty of Wine and Corn, unto whom they did offer up certain sacrifices called *Ambarvales hostia*; quod antequam mactarentur ser circum arva ducebantur, according to that of *Virg. Georg. Terq. Novas circum felix eat hostia fruges*, that they being therewith appeased, might the willinger cause the earth to fructifie, and added himself to the former eleven, as the twelfth Priest, or brother to help in the performance of this publick sacrifice. Moreover, besides the performance of this sacrifice, these twelve were appointed *Arbitrators*, or Judges to decide controversies concerning Land-marks, and bounds of the field, from whence they took their name *fratres arvales*. Their sacerdotal ornament was a garland of Wheat bound up with a white ribband, this being as *Pliny* writeth, the first Crown or Garland amongst the Romans.

o Feneft. de Sacerd. c. 3.

Hospinade orig. Monach. c. 10.

p Plin. l. 17. c. 4.

CAP. 5.

De Sexaginta Curionibus.

After that *Romulus* had divided the whole body of the Romans into three Tribes, or Wards, and subdivided those three Wards into thirty Parishes, called *Curia*, he ordained out of each *Curia* two Parish-priests or Curates called *Curiones*, or *Flamines Curiales*; which were publicly to offer up sacrifice in the behalf of the people. Neither was every one equally capable of this

honor

G 2

honour

q D'on. Hal.
l. 2.

y Di d. ibid.

honour of Priesthood, q but he was to be at the least fifty years old, of a life unspotted, and a body unmaimed. And over all these there was one which had chief rule, and therefore was called *Curio maximus*, the Bishop or chief Prelate: and these sacrifices were called *Curionia*. 7 Their sacrifice being ended, each Parish had a feast in a common Hall built for that purpose: it was called *Domus Curialis*, and sometimes *Curia*.

CAP. 6.

De Auguribus, & eorum Collegio.

Ovid trist. l. 1.
Eleg. 2.

AMongst other kinds of foretellers, we read of three principally used in former time, namely *Aruuspices*, *Auspices*, and *Augures*: all which we English Soothsayers, though the Latine words do import a main difference, worth our observation: all are alluded unto by Ovid.

*Hoc mihi non ovium fibra-tonitrusve finistri,
Linguave servata pennave dixit avis.*

The *Aruuspices* did divine or foretel things to come, by beholding the entrails of beasts sacrificed; whence they had their name, *ab aras inspiciendo*, from beholding the Altars. The *Auspices* did foretel thing by beholding the sight of birds: so that *Auspices* are said *quasi avispices*, *ab aves aspiciendo*. The *Augures* did divine from hearing the chatting or the crowing of birds; whence they are called *Augures*, *ab avium garritu*, from the chirping and chatting of birds. These two last kinds of soothsaying have occasioned these and the like phrases, *bonis avibus*, or *auspicio*, with good luck, *malis avibus*, i. e. with ill luck; and because they would begin & nothing, *in auspicio*, i. e. without the counsel of the *Augures*, hence *Auspiciari rem* hath been translated to begin a matter. The Colledge of the *Augures* at Rome, was first appointed by *Romulus* himself, being very expert in soothsaying, there being at the first but three, namely one of each Tribe; (The word *Augur* being not taken in his

z Fr. Sylv. in
orat. pro Ci-
ventio.

a Pomp. La-
rus cap. de
Augur.

own

own proper sense and signification above mentioned: but generally, by the trope *Senecbadoche*, signifying all kinds and sorts of divining whatsoever, whether it were by observing the entrails of beasts, the flying, screeching, and chattering of birds, or thundring or lightning in the Heaven, or marking the rebounding of crumbs cast unto birds, which kind of divining was called *Tripudium*.) x *Servius*. x *Rosin. ant.*
Tullius the sixth *Roman* King, when he divided *Rome* into four local Tribes, *id est*, regions, or quarters, then did he add the fourth *Augur*, all of them being elected out of the *Patricii*, or the Nobility of *Rome*. y In process of y *Rosin. ibid.*
time *Quinius*, and *Canus Egulinus* being chosen *Tribuni plebis*, i. e. Protectors of the Commons, obtained, that five other *Augures* should be chosen out of the commonalty, and added unto the former four: at which time the Senate decreed, that the Colledge of *Augures* should never exceed the number of nine. x Notwithstanding *Silla* being *Dictator*, added six more, insomuch that their Colledge increased to the number of 15. the eldest of which was called a *Magister Collegii*, the Master, or *Reitor* of the Colledge. The *Augures* excelled other Priests, in b this respect, because if any of them had been convicted of any hainous crime, he did not lose his office, neither was any other subrogated into his room, although the *Roman* custom was, that if any other Priest had committed any notorious offence, he should presently be discharged of his office, and another chosen in his place. x The manner how the *Augur* did observe was this: He sat upon a Castle, or a Tower, the air being clear and fair without clouds or rain, holding a crooked staff (called in Latine *Litum*) in his hand, where sitting in his soothsaying robe called *Lana*, and in Greek *χλαῖνα παρὰ τὴν χλαῖνον*, a calefaciendos, from heating, because it was well lined within, being guarded on the outside with purple and crimson guards, having his head covered, and his face turned toward the east, so that his back was West-ward, his right side South-ward, and his left North-ward. Being thus placed,

x *Rosin. ibid.*a *Alex. Gen. dier. l. 3. c. 19.*
b *Alex. ibid.*c *Pomp. Lxrus de Aug.*

plac'd, he quarter'd out with his crooked staff the heaven into certain *empla*, *id est*, regions or places, observing in what region the birds did appear: then killing his sacrifice, and offering up certain prayers called *Effata*, he proceeded in manner as followeth. But first, suppose we for our better understanding hercof, that now the *Augures* were to resolve the people, whether the gods would assent that *Numa Pompilius* should be King. The *Augur* having done as above is shewed, his *Litum* being in his left hand, he reach'd forth his right hand, putting it upon *Numa Pompilius* his head using this form of words, *Jupiter pater, si fas sit Numam Pompilium, cuius ego caput veneo, regem Romae esse, fac uti nobis signa certa ac clara sint inter eos fines quos feci. i. e.* If it be lawfull for this *Numa Pompilius*, whose head I hold, to be K. of Rome, shew some manifest tokens within these regions or quarters, which I have described. Then if he observed lucky signs and tokens, he presently pronounced *Numa Pompilius* King of Rome, if he perceived unlucky tokens, then did he *obnunciare*, or gainsay, and shew that the matter proposed was not pleasing to the gods. Where by the way we must note, that nothing was confirmed by the *Augures* without the appearance of two lucky tokens one after another, neither was any thing gainsaid by the appearance of the only evil token. The distinctions of the soothsayings have been taken, some from the event, and thence are they called *prospera*, lucky, or *adversa*, unlucky; some from the manner of appearing, and that was either wished, being call'd therefore *impetrativa*; or unwished, called *oblativa*; some from the diversity of things which offered themselves in time of divining, and so there were five distinct sorts: the first was by the observing of lightning and thunder from heaven, the second from the flying and chattering of birds; the third from bread cast to pullets or little chickens; the fourth from four-footed beasts, which either should cross the way, or appear in some unaccustomed place; the fifth from those casualties whereby the gods

d Serv. Aen.
lib. 8.

gods do make their anger appear unto us. Of this sort are those voices which we hear we know not whence (as *Cadmus* heard, when he overcame the Serpent) the falling of salt towards us at the table, the shedding of wine upon our cloaths; from which casualties and the like, the *Augures* would pronounce either good fortune or bad to ensue. And these tokens were therefore called *Dira*, because thereby *Dei ira nobis immotescit*, the Gods anger is made known unto us. Now the things that in divining time appeared on the left hand, were commonly tokens of good luck; because the givers right hand in bestowing a benefit is opposite to the receivers left hand. Whence *f* / *Serv. Ænei.*
sinistrum, though in humane affairs it signifies as much as lib 2.
 unlucky, yet in those holy Rites of divining, *sinistrum* is taken in a contrary sense, as *Avis sinistra*, good luck; *Intonsus levum*, it hath thundred-luckily, we shall have good success; and it is said, *a sinistro*, because the gods thereby do suffer us to proceed in our purposed projects. And therefore *Tully* saith, *1. de divinatione*, *a sinistra cornice rotum, & firmum Augurium fieri*; and in the law of the *12. tables* it is said, *Ave sinistra populi magister esto.* g *Lipf. E' celi.*
 The *Grecians* from hence in the judgement of *Lipsius* have lib. 2. cap. 2.
 called the left hand *deoxeis* from *deox* signifying best.

CAP. 7.

De Tripudiis & Pullariis.

THis kind of conjecturing is called *auspiciu coactum*. *quoniam necesse erat offa objecta cadere frustum ex pul-* b *Cic. de divi-*
li ore, cum pascitur. The word *Tripudium* is used by a syn- nar. lib. 1.
 copation for *terripudium*, which is as much as *terripavium*,
 is est, a dancing or rebounding of any thing upon the
 ground: for *pavire* is the same with *furire*. * Others say, * *Humbert in*
Tripudium quasiteris pedum. It is here taken for the divi- 16. Ep. fam.
 ning, or conjecturing of good or evil to come by the re- Cic.
 bounding of crumbs cast to chicken in a coop or pen:
 whence the *Augur* from these pullets or chicken was cal-
 led

i Alex. Gen.
dier. l. i. c. 29.

led *Pullarius*, *id est*, a Bird-Prophet. i The manner in observing was this: as often as by this kind of conjecturing they desired to know the gods pleasure concerning the enterprizing of any matter, early in the morning those that were skilful in this kind of observation, repaired unto the place where the chicken were kept, where silence being commanded, and the coop opened they cast crumbs of bread to the chicken: now if the chicken either came slowly, or not at all unto the bread, or if they walked up and down by it not touching it, then was it a token that the matter to be enterprized was displeasing unto the gods: but if contrarily the chicken did hastily leap out of the coop, and eat so greedily the crumbs, that some should fall out of their mouths again, then the *Pullarius*, that is, the *Augur*, pronounced that it was well-pleasing unto the gods, and encouraged the enterprizing of what they had intended cheerfully: & this was called *Tripudium solistimum*. This kind of conjecturing may seem to have its original from the *Lycians*, who as often as they desired to foreknow the success of any enterprize, they went unto the fountain dedicated unto *Apollo*, into which they cast baits for the fish: now if the fishes did eat them, it did betide good luck: if otherwise they neglected the baits, then did it betoken some evil event.

4 Alex. ibid.

CAP. 8.

De Aruspiciis, Aurspicina, & Extispicina.

i Senec. Oed.
AB. l. scen. 2.

THis kind of Sooth-sayers, as they were called *Aruspices*, *ab aras aspiciendo*, from beholding the beast upon the Altar: so were they called *Extispices*, *ab extra aspiciendo*, from beholding the bowels or entrails of the beast, called in Latin *Exia*. In this kind of sooth-saying the *Aruspex* observeth the manner as followeth: first, whether the beast to be sacrificed came unto the Altar willingly, without plucking and haling: whether he died without much struggling, or lowd bellowing, at one blow

or

or many; whether any unlucky object were seen, or heard by them whilst they were sacrificing. Again, if the beast was slain, then would they observe, whether the bowels were of an unnatural colour, whether they were not ulcerous, exsiccate or impolluted: moreover they would divide the bowels into two parts, the one they would call *partem familiarem*, from whence they would foretel what should befall themselves and their friends; the other they would call *partem hostilem*; whence they gathered predictions touching their enemies. Hence *Manto* in *Seneca* describing the entrails of his killed Sacrifice, saith, *Hostile valido robore insurgit latus*, meaning by *hostile latus partem hostilem*. Afterward when the Sacrifice was to be burned, they considered whether the flame of the fire was smoaky, whether the smoak rolled and tumbled in the air, whether it were of any continuance or no: for all these were unfortunate tokens, as the contrary did betoken a good and fortunate issue to their designs. These last which observed the fire and smoak were called by a more peculiar name *Capnomantes*, smoak Augures, from the Greek word *καπνός* signifying smoak, and *μαντις*, id est, vates, or a Sooth-sayer. The first instructions that the Romans received were from the *Hebrusci*, who (as they themselves say) received their knowledge from a little Boy, which they named *Tages*, the History being thus; *n* When the *Hebrusci* were plowing their Lands, upon a sudden up started this *Tages* out of one of the Furrows, using divers speeches unto the plow-men: but they being much affrighted at this sudden and strange vision, began with a loud cry to lift up their voices; upon occasion whereof many other people flocked thither, where he gave many good instructions concerning this kind of Sooth-saying, which were presently recorded in Books, and practised afterward by the *Hebrusci*.

m Cels. Aet.
2. Gen. 2.

n Cic. de divinatione.
Indigenæ dixerunt Tages, qui primus Hebruscum Edocuit gentem casus aperire futuros.
Ovid. Met. l. b. ult.

CAP. 9

De Flaminibus.

o Refin. ant.
l. 3. c. 15.
p Rex Anius
Rex idem ho-
minum Phæ-
biq; Sacerdos.
Virg.

TH: Mitre or Head ornament which these Priests did wear, was called in old time o *Flama*, whence the Priests took their names *Flamines*. The p custom amongst the *Grecians*, as likewise afterwards amongst the *Romans* was, that the King should as well perform ceremonies and holy rites of Religion, as civil businesses. But *Numa Pompilius* perceiving that forrain Wars did oftentimes occasion the Kings absence; inſomuch that thoſe Religious ceremonies which he himſelf perſonally ſhould perform, were of neceſſity ſometimes neglected, hereupon he ordained out of the *Patricii* three Priests to perform that divine ſervice unto *Jupiter*, *Mars* and *Romulus*, which he himſelf otherwiſe ought to have performed, calling the firſt *Flamen Dialis*, the other *Flamen Martialis*, and the laſt *Flamen Quirinalis*, from *Romulus* which was often called *Quirinus*.

Sive quod hasta quiris prius est dicta Sabinis,

Bellicus at telo venit in astra Deus.

Sive suo regi nomen posuere Quirites,

Sen quia Romanis junxerat ille Cures.

In proceſs of time twelve others choſen from the Commons were added to theſe, but with this note of diſtinction, that the three firſt were had in great eſteem, and were called *Flamines Majores*, high Priests; the other of leſs note, called *Flamines minores*, inferior Priests; the chief of all was the *Flamen Dialis*, *Jupiter*s high Priest. And whereas every one did wear a certain Bonnet in form of a Mitre, which ſometimes was called *Pileum*, ſometime (by the figure *Synecdoche*) *Apex* (whereas *Apex* doth properly ſignifie only the top of the Bonnet) q none might wear *Albo-galerum*, i. e. a white Mitre, but only *Jupiter*s Priest, and that was to be made of white Sheep-skin, after the Sheep had been ſacrificed. Whatſoever malefactor could eſcape unto this Priest, he ſhould not be puniſhed

q Alex. Gen.
dier. l. 6. c. 12.

punished that day. None was eligible into this office, but he that was married; neither was it lawful for him to marry twice, but if his wife died *Flaminio abibat*, i. e. he resigned his sacerdotal office. To him was permitted a rich robe of state, and a Curule chair; none might fetch fire out of his house, unless it were to perform some Sacrifice therewith, & none might barb or pole him but a free-man, and that with brazen scissers. Many other ceremonies there were which concerned this *Flamen*, as likewise Time added many other *Flamines*, namely seventy god one; yea sometime those threescore Parish Priests which formerly were called *Curiones*, were called *Flamines Curiales*, and divers Emperors after their death had also their *Flamines*. Moreover we must note that those Priests wives were called *Flaminica*; Their Ministers (for they were wont when they went to Sacrifice, to take a boy or maid with them) *Flaminii*, or *Flaminie* and the chief *Flamens* dwelling house was called *edes Flaminea*, or *Flaminia*. But as it seemeth probable, *Numa Pompilius*, and so the other Kings succeeding him, did still reserve their right and authority in holy matters so far, that they would instruct other inferiour Priests, yea and specially perform some special Sacrifices themselves: whereupon after that the Kings authority was abrogated amongst them, then that these Sacrifices might be continued, they chose a certain Priest, which they preferred before the *Flamen Dialis*, but judged him inferior to the *Pontifex maximus*, or Arch-pontific, and him they called *Rex sacrificulus*, and *Rex sacerorum*, the King Priest. To him once every year the Vestal Nuns repaired, and used these form of words, *u Vigilasne Rex? Vigila*. King art thou awake? awake. For unto him it did belong to bid holy-days, and to provide all things necessary for publick Sacrifices. He was to instruct those that sought unto him, the causes of the holy dayes, and tell them what was lawful and unlawful every month; and upon the fifth of the *Ides* of January he Sacrificed a *Ram* to *Janus*.

r Serv. Æn.
l. 1.

/ Fcnest. de
sacerd. c. 5.

r Alex Gen-
dicit. l. 6. c. 12.

u Serv. in Æn
10.

He was likewise wont to offer up a Sacrifice in the Comitium or great Hall of Justice, which being finished, he ran as fast as he could out of the Market-place without delay. His wife was called *Regina sacerorum*, the Queen-Priests, and was wont upon the Kalends of every moneth to Sacrifice a Porker, or a Lamb in her place, in the honour of *Juno*.

CAP. 10.

De Marte, five Mavorte, & Salis Palatinis Marti dicatis.

Mars otherwise called *Mauors* by the figure *Ephēthesis*, as we say *Induperator* for *Imperator*, was reputed the God of War, and so *Metonymicus* is used for War, as *virio Marte pugnatum est*, the battel was doubtfull; *proprio Marte* by ones own strength and labour. He was the son of *Juno* only, without company of her Husband: for when *Juno* was greatly displeased with her self, that *Jupiter* by striking his head, without the company of a woman did bring forth the goddess *Minerva*, she by the counsel of the goddess *Flora* touched a certain flower in the field of *Olenius*, by vertue whereof she immediately conceived the god *Mars*. This god, by reason of his dominion in War, the *Romans* painted fiery, sometimes in his Chariot, sometimes on Horseback, with a Javelin in one hand, and a Scourge in the other. In old Coyns there was sometimes the picture of a Cock joyned with him, to shew the Vigilancy and carefulness that Souldiers are to use. He was called *x Gradivus a gradiendo*, from marching in battell against his enemies. He had a Temple without the City, whence he was called *Extramuranus*. y Near unto this Temple, without the gate *Capena*, did ly a stone of great note, which upon great droughts the people would bring into the City, and presently rain would follow; whereupon it was called the Rainstone, *Lapis manalis, a manando*. *Numa Pompilius* in the honour of *Mars*, surnamed *Gradivus*, ordained twelve dancing

x Rosin. ant.
l. 2. c. 10.

y Rosin. ibid

dancing Priests, called *Salii* a 2 *saliendo* from dancing, ^{a Plutarch in} which number afterward we find to have been doubled ^{Nam. 1.} by *Tullus Hostilius*, in the War against *Fidena*, a town of the *Sibines*. The former twelve being called *Salii Palatini* from the *Palatine* mount, where they did begin their *maurisk*: the other *Collini*, from the *Hill* where their *Chappel* stood; a and sometimes *Quirinales*: and sometimes *Agonales*: so that the whole Colledge contained 24. Priests. ^{a Dion. Hal. lib. 2.}
 b The occasion of their first institution was this; upon a ^{b Plutarch in Num.} certain time, in the reign of *Numa*, the plague, or some other contagious sickness was very hot among the *Romans*, inasmuch, that no Sacrifice, or holy Offering could remove it: at that time a certain brazen Target or *Scutcheon*, called in *Latine* *ænea pelta*, or *ancile*, big at both ends, but cut like an half Moon on each side, fell from heaven into *Numa* his hands, with a certain voice promising all health unto *Rome*, so long as that brazen Target could be kept safe. Whereupon *Mamurius* a cunning workman, by the appointment of *Numa*, made eleven other *ancilia* so like the first, that neither could be known from the other (to the intent that if any should be so wicked minded as to steal it he might fail of his purpose by mistaking one for another.) These 12. Priests had the custody and keeping of them committed to their charge, and in the month of *March*, every year they apparelled themselves with a party-coloured Coat, called *tunica versicolor*, girt close to their body with a belt, or sword-girdle, & a breast-plate of hardness, called *æneum pignus*, upon that, and a robe of estate, called *trabea*, clasped about them uppermost of all. Upon their heads they did wear *apices*, i. e. Caps much like unto the *Persian* Bonnets, called in *Greek* *καοίαι*, or *τιδικαι*. ^{c Dion. Hal. lib. 2.} They did somewhat resemble our head-pieces in War, made close unto the head, with a crest of cloath upon the top, whence some have called them *Galeas*. They being thus apparelled, danced about the *Forum*, or Market-place, and the *Capitol*, with short swords by their sides, a Javelin in the right hand, and their *ancile* in the

the other; using certain Songs; either of the gods, and those they called *Janualii*, *Janonii*, and *Minervii*; or of men, and those they called *Axamenta*, because in those Songs they did *exire*, i. e. nominate and call upon the names of some well-deserving men; as *Mamurius* which made those eleven Scutcheons, was often called upon in those Songs. Upon their festival dayes they had excess of cheer, whence *d Horace* hath used *Saliarum dapes*, to signifie dainty fare.

*d Horat. l. 1.
Cde 37.*

CAP. II.

De Fœcialibus, & Patre patrato.

THese *Fœciales* were Officers at Arms, or Heralds, to denounce war, or proclaim peace, appointed thereunto at first *e* by *Numa Pompilius*. *f* The chief part of their Office was to dissuade the Romans from molesting any confederate Nation, with unjust War: and if any confederate Nation did offer injury unto the Roman people, then did these *Fœciales* go as Embassadors unto them, perswading and exhorting them to yield the Romans their right: but if they continued thirty dayes obstinate, refusing to yield to that which should be just and right, then did they presently denounce War against them, casting forth a dart in token thereof; which denunciation was *g* called *clarigatio a clara voce qua utebantur Fœciales*. Others are of opinion, that whensoever War was denounced, this Herald at Arms should *h* turn loose a Ram unto their enemies borders; signifying thereby, that their fields should shortly become pasture for the Romans: from which custome we say of one that challengeth another into the field, *Arictem emisit*. Again, if the *Imperator*, or Lord-general, had done ought against his Oath, these *Fœciales* by their Sacrifice did avert the wrath of the gods from him. The chiefeft of them was called *Pater-patratus*, a perfect Father: for he only could be *Pater-patratus*, which had both children of his own, and his Father also alive. They were

*e Pomp. Latin.
de sacer.
f Deon. Hal.
lib. 2.*

*g Serv. Æn.
lib. 2.*

*h Vid. Eras.
Adag.*

were called *Faciales*, a *facere faciendo*, from making a league or peace between Nations. This league which we in Latine do call *Fœdus*, the Romans in old time did i *Pighius* Se-call *Fides*, as *Ennius* and *Pighius* witness; whence these prim. l. 1. *Faciales* were termed also *Fidei Flamines*.

C A P. 12.

De Duumviris, & Decemviris, & Quindecim viris, Sacris faciendis, item de Sibyllis.

THIS Priesthood had its first institution from *Tarquinus Superbus*, whose office was as well to expound as to keep the Oracles of those ten Prophetesses so famous throughout the world, called *Sibylæ*. Concerning whom *k Munst* hath these words: In times past there came a strange woman to *Tarquinus* the King, offering nine Books full of the *Sibylline* Oracles to be sold: but *Tarquinus* thinking the Books too dear, refused to buy them; the woman departing, burned three of these Books and came the second time unto *Tarquinus*, demanding as much for those six Books, as formerly she had done for the nine; *Tarquinus* began to deride her, whereat the woman departed, and burned three more, returning again unto *Tarquinus*, and asking as much for the three left, as she asked at the first for all nine. Then began *Tarquinus* more seriously to bethink himself thereof, and sent for his *Augures*, asking counsel and advice of them. And they understood, by certain signs observed, that the King had refused some special goodness sent from the gods; and for the Books that remained, they advised that the woman should have what she asked. As soon as the woman had delivered her Books, she presently vanished, and was never seen again; only warning them, to keep the Books as safe as possible they could. For the safe keeping of these, *Tarquinus* chose two of the Noblemen, or *Patricii*, calling them *Duumviri*, appointing them, as well by study to expound, as with

k Munst. in sua Cosmog. l. 2.

Benef. de
sacerd. c. 13.

¶ Serv. Æ.
lib. 6.

¶ Mun. in sua
Cōsm. lib.

Credite me
vobis folium
recitare Sy-
byllæ.

¶ Epist. l. 2.
epist. 1.

with care to keep these Oracles. In process of time, the people obtained, that ten should be appointed to this office, five of them being chosen out of the Commons, and five out of the Nobles: and then they were called the *Decemviri*. Afterward by L. Sylla, as it is thought, five more were added, so that they were then called the *Quindecim viri*: nay the number was increased by Sylla unto forty, as *Servius* thinketh, but still called by the name of *Quindecim viri*. Of these women that had the spirit of Prophecie, ten were very famous: the first was called *Perfica*, the second *Libica*, the third *Delphica*, the fourth *Cumæa*, the fifth *Erythrea*, the sixth *Samæa*, the seventh *Cumana*, the eighth *Hellepontia*, the ninth *Phrygia*, the tenth *Tiburina*: They all prophesied of the incarnation of Christ. The place where these Books were kept, was within the Capitol under ground in a Chest of stone, where they remained safe, until the burning of the Capitol, at which time they also were burned. Notwithstanding many of the Prophecies have been known, partly by tradition, and partly being taken out of other copies in other Countries. One of the Prophecies concerning our Saviour Christ, was uttered by *Sibylla Delphica* in manner as followeth: *n Nasceetur Propheta absque matris coitu ex utero ejus*, that is, There shall be a Prophet born without any copulation of the Mother, even out of her womb. It was spoken at *Delphos*. All their Prophecies were of that certainty, that when we would aver any thing to be undoubtedly true, we use to say, it is *Sibyllæ folium*, as true as *Sibylla's* Oracles. The *Cumæa Sibylla* did write her Oracles at the mouth or entrance of her Cave in leaves of trees, which the fierceness of the wind did oftentimes so scatter, that they could hardly be brought in order again: inasmuch that when we would shew the great difficulty of bringing things in order, we may use *o Politian* his words, *Laboriosius est quam Sibyllæ folia colligere*, it is easier to gather *Sibylla's* leaves. This name *Sibylla* is not a proper name, but an appella-

tive,

tive, common to all women endowed with the spirit of Prophecy, taking their domination from *p. ens*, which is in the *Æliæ* dialect the same that *Ens*, God, and *Beas*, i. e. counsel, because they did open and declare the counsel and determination of God unto the people. It appertained also unto these *Quindeceviræ* above-mentioned to see that sacrifice, and divine service, that supplications and processions, expiations, and all ceremonial rites were duly performed.

¶ Serv. *Æn.* l. 6.
ens enim De-
os, non d'us:
& consilium
non habet,
sed habet,
appelabant.
Æliæ gene-
re s' rmonis,
Lat. de falsa
rel' g'ione, l. 1.
c. 2.

CAP. 13.

De *Bona Dea*, & *Sacris ejus*.

THIS Goddess which is so famous by the name of *Bona dea*, is the Globe of the earth: which is therefore termed *Bona dea*, the good Goddess, because we reap so many good things from the earth. She is called also *Opr*, the helping Goddess, *ab ope*, from help, because by her help we live. She is called *Fatua* and *Fauna*, i. e. the Goddess of speech, because young children do never speak until they are able to go, and so have touched the earth. The *Greeks* called her *ἑρμηνία* *ἑρμηνία* the female Goddess, because that no male might be admitted to her sacrifices; nay the very pictures of men were at that time to be covered. The inner room where her sacrifices were, was called *τὸ γυναικῶν*, the place for womens assemblies. ¶ Those that were chief in these sacrifices, were the Vestal Nuns. This good Goddess was supposed to be the Wife of *Faunus*, & upon a time to have been taken drunk with wine by him: for which fault *Faunus* was said to have beaten her to death with Rods of Myrtle tree; but afterward being sorry for that he had done, in amends he made her a Goddess, and as it were ever after detesting the Myrtle tree, he hallowing all other herbs and flowers to be used in these sacrifices forbade the Myrtle tree. Some say she was so chaste, that she was never seen by any man but by her husband; and in respect of

¶ Cic. *orat. de*
Arusp. respon-
sis.

7. Alex. Gen.
dier. 1.6.c.8.

her chastity, the Myrtle tree is forbid, because it was consecrated to *Venus*: but whereas in this sacrifice they used wine, they called it not by the name of wine, but milk or honey; whence they called the vessel wherein the wine was put *Amphoram mellariam*, i. e. the honey vessel. This sacrifice became very famous by reason of *Clodius*, who being in love with *Pompeia*, *Julius Caesar's* wife, came unto these sacrifices in womens apparel, and was found out by *Antelia*, *Julius Caesar's* Mother. This *Clodius* became so infamous for this, and other his adulterous pranks, that he occasioned a common Proverb amongst the *Romans*, *Clodius accusat Maehos*, answerable to which our English Proverb is, One Thief accuseth another.

G A P. 14.

De Cybele, & Sacerdotibus ejus.

THE Goddess *Cybele*, or rather *Cybele*, was in her infancy exposed unto wild Beasts, unto the Hill *Cybellus*; where she being nourished by the wild Beasts, afterward became a woman of admirable beauty, and being found by a Shepherds wife, was brought up by her as her own child, and called *Cybele*, from the Hill *Cybellus*. She excelled in natural gifts, and was the first that used a Taber and Pipe, and Cymbals among the Greeks. Moreover she tenderly loved children, and therefore was called *magna mater*: she was also called *mater deorum*, the Mother of the Gods;

Ipse deum servit genitrix Berecynthia. Virg.

She was called *Rhea a flu*, to flow, because she doth flow and abound with all kind of goodness. She was also named *Pessinnuntia*, from the City *Pessinus* a Mart-town in *Phrygia*, where she had a Temple. Moreover, she was called *Berecynthia*, from the Hill *Berecynthus* in *Phrygia*, where she was worshipped. Her Priests were called a *Galli*, and their chief governour *Archi-Gallus*; they took their name from a certain River in *Phrygia*, called *Gallus*; of which

s Pomp. Lx.
de sacerdot.

Of the Roman Priests, with some particular gods.

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which whosoever drank, he became so mad, that he would presently geld himself, (as in truth all her Priests were enjoined to geld themselves with a fish shell) the original of which custom is rendred thus: *Cybele* loved a young man of *Phrygia* called *Atys*, and him she appointed chief overseer for her sacrifice, upon condition that he would keep himself chaste perpetually: But he not long after deflowred a Nymph, for which fact *Cybele* bereft him of his wits and understanding, so that he in his madness did geld himself, and would have killed himself also, & had not the gods in their commiseration towards him, turned him into a Pine-tree. In remembrance of him ever after, her Priests were gelded. Every year the *Prætors* did sacrifice unto this Goddess. But the performance of the holy and religious rites at that time did belong unto a *Phrygian* man and *Phrygian* woman, chosen for that purpose: Which according to the manner of their country being apparelled with a party-coloured garment, called in Latine *Synthesis*, or *Amictus variegatus*, and carying the picture of their Goddess about with them in the streets, they struck their breast with their hands, keeping tune with the Tabers, Pipes, and Cymbals, which other people following plaid upon. The Priests were also called *Corybantes*, from one *Corybanti*, which was one of her first attendants; and hereupon we call the Cymbal era *Corybantia*. In this manner dancing about the streets, they begged money of the people whom they met; and hence were they named *Cybele* her collectors, or her *circulatores*, id est, Juglers: Some called them *μυρδύπνους* from *μύρτα*, which in this place signifieth *Cybele*, called the great mother, and *δύπναι*, a begger or gatherer of alms. Others have called them *Mitricis*: But by what name soever they were called, the place was so infamous by reason of their drunkenness, and incivility used at these times, that when they would point out a notorious naughty fellow, they would call him *circulatorum Cybelæum*, *Cy-*

Cybellis
Æ:yi Exuit
hac hominem
truncoq; indu-
ruit illo.
Ov. Met.

7 Rosin. smt
L. 3. c. 27.

like her Jugler. Neither was it lawful for any free-born to undertake that office.

CAP. 15.

De Collegio Pontificum, & Pontifice Max^o no.

THis word *Pontifex* is commonly translated a Bishop or Prelate, being called *Pontifices* in Latine, as also Pontifices in English, from one part of their office, which was to have the oversight of a great wooden bridge, called in Latine *Pons sublicius*, being so great, that Carts and waints might pass over it, having no arches to uphold it, but only great piles and posts of wood: and that which is most remarkable in it, was that it was joyned together only with wooden pins, without any iron at all. Others are of opinion, that they were termed *Pontifices* quasi *Pontifices*, from *ponis* and *facio*, of which opinion Lucan seemeth to be, according to that, *Pontifices sacri quibus est commissa potestas*. Concerning the number of them, only four were appointed by *Numa*, all which then were to be chosen out of the *Patricii*: afterward four more were added out of the Commons. These were called *Pontifices majores*, or chief Pontifices, to distinguish them from seven other, which afterward *Sylla* added, and called them *Pontifices minores*, inferiour Pontifices. The whole company of them was called the Colledge of Pontifices. This Colledge was privileged from all allegiance, being not bound to render account of their doings either to the Senate or Commonalty. They were to determine all questions concerning Religion, as well between their Priests as between private men: they had authority to punish any inferiour Priest, if he either detracted or added unto those Religious Rites which were prescribed unto him. They had their Pontifice, whom they called *Pontificem Maximum*. These Pontifices were wont to exceed in their diet, insomuch that when the Romans would shew the greatness of a

feast,

¶ Plutar. in
Numa.

¶ Feneft. de
sacerd.

¶ Rosin. ant.
l. 3. c. 22.

feast, they would say it was *Pontifica cana*, i. e. according to our English phrase, a feast for an Abbot. *Cana adjuicalis* is taken for the same. a *Lapsus* in the exposition of the latter phrase taxeth the Printers negligence, and is of opinion, that it should have been printed *Cana aditialis*, understanding hereby a solemn feast made by Magistrates in *aditu honoris*, at their entrance into their office, and at their day of inauguration.

4 Lib. 4. de magn. Rom. c. 9.

CAP. 16.

De Epulonibus.

THe Pontifics in old time appointed three men, whom they called *b Trium-viros Epulonum*, (from *Epulum* a feast) to have the oversight of the feasts made at sacrifices; afterward by reason of two twice added, they were called first *Quinque-viri*, and at length *Septem-viri Epulonum*.

b Lazius de Repub. Rom. l. 3 cap.

CAP. 17.

De Titiiis.

ANother sort of religious men there were, which lived in the Suburbs of the City, and practised Sooth-saying; they were called *c Titii* from the name of the birds which they observed: which in Latine were called *Titia*.

c Pancirol. l. rerum depend. c. de mole Hadriani.

CAP. 18.

De Virginibus Vestalibus.

NEIR unto *Castors* Temple, stood the religious House or Nunnery, dedicated to the Goddess *Vesta*: where at the first were four, after six Virgins, or Votaries elected, whose office was chiefly to keep the sacred fire; the extinction whereof proved ominous, and did portend some evil event shortly to happen. And therefore for their negligence herein, as for all other small faults, they being had into a dark corner, stripped naked, and

a cur-

e Plutarch, in
Numa.

d Suet. in Ju-
lio.

* Vid. sup. p.
14.

e Munst. in sua
Cosmog. l. 2.
c. 9.

a curtain drawn half way over them, the chief Pontife scourged them: neither was it lawful to kindle the fire once put out, with any other fire, but from the Sunbeams, for which purpose they had certain instruments named *conspira*, which were formed in the manner of a *pyramis*, but hollow; so that the beams being collected within the circumference, and meeting in the *vertex*, did easily kindle any combustible matter put into it; but chiefly if the matter was of black colour; because, as Philosophy teacheth, a dark colour doth congregate, or collect the beams, whereas whiteness doth disperse them. A second part of their office was to work reconciliation between parties offended, as appeareth by *d Suetonium*, where we may read, that by their intercession *Sylla* was reconciled to *Cesar*. They were chosen into this place between the sixth and the eleventh year of their age: and they were to remain in this Nunnery thirty years space, ten years to learn their ceremonies and mysteries, ten years to exercise them, and ten years to instruct others: within which space if they had suffered their bodies to be defiled, they were to undergo that fearful punishment* afore mentioned. But these thirty years being expired, marriage was lawful for them; so that they laid aside their scepters, their fillets, and other their sacerdotal ornaments. Notwithstanding those which did marry, in the end died fearful deaths: whereupon they chose rather to abstain commonly. The Romans had them in great honour, so that they never walked abroad, but with an iron scepter in their hands, and whatsoever malefactor met them (if the Nun would take her oath it was by chance) he escaped punishment. They were named *Vestals* from their Goddess *Vesta*, which word (as *e Munster* writeth) is derived from the Hebrew *Radix* signifying fire. The eldest was called *Maxima Vestalis Virgo*, i. e. the Lady Prioresse, or chief governess.

CAP.

CAP. 19.

De veterum sacrificiis, & ritu sacrificandi.

WHATSOEVER was burnt or offered up unto the Gods upon an Altar, it had the name of a sacrifice, and sometimes it was called *Vitima*, quod *vinctis ad aras stabat*, because the Beast to be sacrificed stood bound unto the Altar; sometimes *Hoftia*, from an obsolete verb *Hoftio*, which is to strike, because certain under-officers called in Latine *Pope* (standing by the Altars, all their upper part naked, and a Laurel-Garland upon their head) did *Hoftiare victimam*, i. e. strike down and kill the sacrifice. Others are of opinion, that this name *Hoftia* is taken from *Hoftis* an enemy, according to that of *Ovid*, *Hoftibus a domitiis, Hoftia nomen habet*; because either before war, to procure the Gods favour, or after war, in token of thankfulness, they did *hosiā ferire*, i. e. offer up the sacrifice. The second difference of sacrifices hath been occasioned in respect of the time, and so they have been called *præcedanea*, or *succedanea*, quasi *præcedanea* & *succedanea*. Those sacrifices which were offered up the day before any solemn sacrifice, were called *præcedanea hosiæ*, fore sacrifices, as we English *præcursorem*, a fore-runner: which fore-sacrifices, if by any token they found unlucky, then would they offer up a second sacrifice which they termed *hosiā succedaneā*; and because these second sacrifices were to be offered only instead of the other, when they were unlucky or faulty, hence hath *Plautus* used this speech, *meum verum stultitia tua subdes succedaneum?* Must I be whipped for thy fault? The manner of sacrificing was as followeth: Some certain days before any sacrifice was to be performed, the Priest was wont to wash his whole body, especially his hands and feet, which if he had not washed, the sacrifice was accounted polluted: and alluding unto this custome, we say, a man doth.

doth *Accedere ad rem illotis manibus, or illotis pedibus*, as often as he enterpriseth any business without due reverence or preparation thereunto.

Μυστικὸν ἔχεις δὲ ἄδβιν ἄδουκα ὅτι οὐ

ῥαπὶς ἀνιέται. Ηλῆδ. ἔργα καὶ ἡμέρ.

Moreover, the Priest was to abstain from his Marriage-bed, as likewise from divers kinds of meats, and at the time of his going to sacrifice, either himself or some inferior Sexton going before him with a rod or wand in his hand (called *commentaculum*) used this form of words unto the people, *Hee age, attend this you are about*: which custome seemeth to have had its original from the *Grecians*; For before the time of sacrifice, the *Grecian* Priest used almost the like speech unto his people, as *τίς τίς ἐστί, i. e. who is here?* the people answered, *πολλοὶ καὶ ἀγαθοί, i. e. many men and good*. After this preparation, then did the Priest, laying his hands upon the Altar, rehearse certain Prayers *h* unto the God *Janus*, and the Goddess *Vesta*; because the *Romans* were persuaded, that without their intercession, they might not have access unto the other Gods: his prayer being ended, then did he lay *i* upon the beasts head a little Corn, together with a Cake made of Meal and Salt, called in Latine *Mola*, *k Mola erat far istum, sale aspersum*. From this ceremony the act of sacrificing hath been termed *Immolutio*. After this the Soothsayer drank wine out of an Earthen or Wooden Chalice, called in Latine *Simpulum*; or *Simpurium*. It was in fashion much like our Ewers, when we pour water into the Basin. This Chalice was afterward carried about to all the people, that they also might *libare, i. e. lightly taste* thereof, which Rite hath been called *Libatio*. Now every one having tasted thereof, the rest of the Wine, with Frankincense mixt in it, was to be poured upon the Beasts head, *m* between the horns, one crying out with a loud voice, *Matia est hostia, i. e. magis autia*, more increased and made more pleasing unto the Gods, as *Virgil* saith, *Maie nova*

virtute

g Plutarch.
Num.

h Serv. Acc.
lib. 1.

i Panielol. l.
rerum dep. r.
dit. c. de sale
Ammoniac.
& Textor. in
sua officina,
Spurge salsa
colla tauro-
rum mola.
Sen. Oedip.
Act. 2. scen. 2.
j Pancir. lib.
rerum deper-
dit. c. de Am-
moniac. sale.
m Media inter
cornua fundir.
Virg. Æneid.

virtute puer, i. e. O good child which increaseth in virtue. And hence, even from this term, we may conjecture that the word *Massa*, which signifieth to kill, and sometimes to Sacrifice, hath had its original, because they did immediately after that voice, *massare bestiam*, that is, slay the Sacrifice, and that was done in this manner ;

First the Priest did pluck off some of the Beasts hairs between the Horns, and cast them into the fire, calling them his *prima libamina*, i. e. his first offerings : Then did he, turning his face towards the East, draw a long crooked Knife upon the Beasts back, commanding his under officers, which I called *Popa*, others *Cultarii* from their Knife ; *Vidimarii*, from the Hoast ; and *Agones*, because they standing ready to give the stroke, often used this word *Agon*, for *Agone*, i. e. Must I to my work ? to kill the Beast. The other people standing by, some did with vessels save the blood, others did flay or skin the Beast, others washed it. Anon, some Soothsayer or Priest did observe the entrails, turning and winding them with a knife, which was called *Secessia a secundo* : for he might not touch them with his hand, they conceiving that if the Sacrifice had proved polluted, his hand would then have perished. Now after the Soothsayer or Priest had sufficiently turned the entrails, and found no ill token therein, then did those *Popa* or Church-butchers, cut off from every hewel some portion, which after they had rolled in barley meal, they sent it in baskets to the Priests, and the Priests taking it up into a broad charger or platter, called *discus*, or *lana*, laid it upon the Altar, and burnt it, and o this was properly termed *litare* or *reddere*, i. e. to satisfy by Sacrifice, or to pay the Sacrifice which was owing unto the Gods. After that the portion laid out for the Gods had been burnt, then did all the people repair unto a common Feast ; where, as they were eating they sung Hymns and Songs in the praise of their Gods, and playing on Cymbals, they danced about the Altars, intimating thereby, that there was no part of their body,

• Robin. int.
l. 3. c. 33.

• Joac. Camerar. pro Flac.

but should be employed in the service of their gods. Now until all their Ceremonies and Mysteries were finished, it was not lawful for any to tast of this feast ; insomuch that we since have used to check a glutton, or greedy gut which cannot abstain from his meat till grace be said, in this manner, *Sacra band immolata devorat.*

De Nuptiis, & nuptiarum renunciacione.

Seeing that Marriages and Burials have such dependence upon the Priests, it will not be amiss to conclude this Section with two Chapters, briefly opening the Ceremonies of both. Before we come unto the solemn Ceremonies used by the Romans in their Marriages, we will first shew the manner of their contracts, which were called by the Romans, a *Sponsalia*, a *Spondendo*, because in their contracts each did promise ether to live as man and wife. Now the manner of contracting was commonly thus : They did for the greater security, write down the form of the contract upon tables of record, as appeareth by *Juvenal, Sat. 6.*

Sic tibi legitimis pollam, junctamq; tabellis.
Non es amaturus.

These tables were also sealed with the signets of certain Witnesses there present, who were termed from their act of sealing *Signatores*. Moreover, before they would begin the Ceremonies of their contract, the man procured a Soothsayer, and the woman another, with whom first they would consult. Whence *Juvenal, Sat. 10.*

Veniet cum signatoribus asper.

The token or sign which these Soothsayers in time of observing accounted most fortunate, was a Crow: *Et enim cornicum societas est, ut ex duobus sociis altera extinguitur, videtur altera perpetuo maneat.* The man also gave in token of good will, a ring unto the woman, which she was to wear upon the next finger unto the little finger of the left hand,

a Salmuth. in
Panciroi. l.
rerum deper-
dit cap. de
nuptiis.

† Alex. Gen.
dier. l. 3.

hand, & because unto that finger alone, proceeded a certain artery from the heart. The word *Nuptia*, which signifieth marriage, had its derivation a *nubo*, & which verb in old time signified to cover: the custom being, that the woman should be brought unto her husband with a yellow veil (called *Flammenum*) cast over her face. Again because of the good success that *Romulus* and his followers had in the violent taking away of the *Sabine* women, & they continued a custom, that the man should come and take away his wife by a seeming violence; from the lap or bosom of her Mother, or the next kin. She being thus taken away, her husband did dissever and divide the hair of her head with the top of a spear, wherewith some Fencer formerly had been killed. This spear was called by him *Hasta calibaris*, & the Ceremony did betoken, that nothing should disjoyn them but such a spear, or such like violence. The next day after the marriage, a solemn feast was held, where all the Bride-mans and Bride-womans friends met to make merry; this feast they called *Reposita*. We must note, that *b* three manner of wayes a woman became a mans lawful wife: *Usu*, *Confarreati* ne, *Coemptione*. A woman became a mans lawful wife, *Usu*, i. e. by prescription or long possession, if that she were wed with the consent of her overseers, and so did live with a man, as with her lawful husband, a whole years space, *nullo interrupto usu*, i. e. i she being not absent from him three night in the whole year: and some have thought, that the counterfeited violence in taking away the Maid from her friends, was used only in this kind of Marriage. A woman became a mans wife *confarreati* one, i. e. by certain solemnities used before a Pontiffe, or chief Bishop, when the woman was given unto the man using a set form of words, ten Witnesses being present, and a solemn Sacrifice being offered, at which the couple married should eat of the same barley cake which formerly had been used in the Sacrifice. Which Sacrifice was termed, *a farre*, *confarreatio*, and the marriage

c Aul. Gel.

d Robin. ant.
l. 3. c. 37.e Plin. l. 21.
c. 8.f Sig. de jur.
Rom. l. 1. c. 9.g Salmuth in
Pancirolo, lib.
rerum deper-
dit. cap. de
nuptiis.h Boeth Topi-
cor. 2. 6id.Cael. Rhod.
l. 28. c. 17.i Sig. de jur.
Rom. l. 1. c. 9.

¶ Cic. orat.
pro Muran.

Sig. de jur.
Rom. l. 1. c. 9.

m Suet. in Tib.
c. 35.

¶ Cic. orat.
pro Muran.
Item Fr. Syl.
ibidi

a Cael. Rhod.
l. 28. c. 17.
p. Hier. Ferari-
us in Phil. pic.
orat.

it self *Farratio*, and sometimes *Saera*, simply; the dissolution of this kind of marriage *Diffarreatio*. A woman became a mans wife, *Coemptione*, i. e. by buying and selling, when the woman did under a feigned form of sale buy her husband, by giving him a piece of coyn. *Veteri Romanorum lege, nubentes mulieres tres ad virum asses ferre solabant: atque unum quidem, quem in manu tenebant, tanquam emendi causa marito dare.* ¶ To these three some teach, that a fourth sort of marriage was in use among the *Romans*: Namely, when a woman became a mans wife, *Sortitione*, by a kind of Lottery: and of this they say, m *Sueton* speaketh. ¶ In that kind of marriage which was *per Coemptionem*, the man was not named by his proper name, nor the woman by hers, but the man was named *Caius*, and the woman *Caia*, in the memory of the chaste and happy marriage of *Caia Cecilia*, wife to *Tarquinius Priscus*; from whence sprang a custom among them, that the new married wife, when she was brought home unto her husbands house, was to use this Proverb, *Ubi tu Caius, ibi ego Caia*, by which word she signified, that she was now owner of her husbands goods, as well as himself: and therefore *Erasmus* hath expounded that saying by these words, *Ubi tu dominus, ita ego domina*; ¶ And she that was thus married *per Coemptionem*, was properly called *Mater-familias*. ¶ If any of these Ceremonies were omitted, then was the marriage termed *Nuptiae innuptae*, in which sense we call our enemies gifts no gifts, *ἔξωτος ἀδωγὰς δῶρον*. These ceremonies being ended, towards night the woman was brought home to her husbands house with five Torches, signifying thereby the need which married persons have of five gods, or goddesses, i. e. *Jupiter, Juno, Venus, Suadela*, and *Diana* who oftentimes is called *Lucina*, the reason of the name being rendred by *Ovid*.

— *Dedit haec tibi nomen lucus,*

Aut quia principium tu Dea Lucis habes.

There are of opinion, who think that the use of these Torches

Torches was not only to give light, but to represent the element of fire; for no marriages were thought happy, which were not contracted *Sacramento ignis & aquæ*, for which reason the custom likewise was, to besprinkle the new married woman with water; yea, they did both in the time of their contract touch water and fire provided for that purpose. The signification of this ceremony some think to be thus; The fire because it is an active element, to represent the man, The water, because it is passive, to represent the woman. Others say, that in the community of these two elements, was intimated the community between man and wife, of all other their goods and possessions, which was more fully declared in that fore-quoted Proverb, used by the wife, *Ubi tu Caia, ibi ego Caia*. The matter whereof these Torches were made, was a certain tree, from which a pitchy liquor did issue: it was called *Teda*, and hence have the Poets figuratively called both the Torches and the Wedding it self *Teda*. When the woman had been thus brought to the door, then did she anoint the posts of the door with oyle, *q* from which ceremony the wife was called *uxor quasi unxor*. This ceremony of anointing being ended, the Brideman did lift her over the threshold, and so carried her in by a seeming force, because in modesty she would not seem to go without violence into that place, where she should lose her Maiden-head. At her carrying in, all the company did cry out with a loud voice, *Talassio, Talassio*: for which custom, *Plutarch* alleadgeth many occasions; this being one. Among those who ravished the daughters of the *Sabines*, there were found some of the meaner and poorer sort, carrying away one of the fairest women; which being known, certain of the Citizens would have taken her from them, but they began to cry out, that they carried her to *Talassius*, a man well beloved among the Romans; at which naming of *Talassius*, they suffered her to be carried away, themselves accompanying her, and often crying *Talassio, Talassio*.

Panciroli. lib.
rerum d. per-
dit. cap de
Nuptiis.

q Serv. Æn.
l. 4

Plutar. vic.
Pompeii.

From

From whence it hath been continued a custom among the Romans, ever at their marriages to sing *Talassio, Talassio*, as the Greeks did *Hymen, Hymenae*. From this custom of leading or bringing home of the new married Bride, cometh that Comical phrase, *Ducere uxorem*, to marry a Wife. She being thus brought home, received the keys of her husbands house, whereby was intimated, that the custody of all things in the house, was then committed unto her. ¶ The marriage bed was called *Genialis lectus*, as we may suppose, *quasi Genitalis*. † Sometimes it was called *Lectus adversus*, *quod hunc lectulum religiose servari mos fuit, & in atrio collocari januae ex adverso*, i. e. they placed this bed in the Court, directly opposite to their gate, keeping it as some religious monument or pledge of matrimony. The next day after the marriage, the Bride-woman received gifts of her friends, which the Lawyers term *Nuptialia dona*. † But Cicero expoundeth these *Dona Nuptialia*, to be certain tokens, which the husband sent to his wife before the betrothing. If after the marriage any discontent had fallen out between the man and his wife, * then did they both repair to a certain Chappel, built in the honour of a certain goddess, called *Dea viri-placa, a viris placandis*. Whence after they had been a while there, they returned friends. We have thus seen the Rites and Ceremonies which the Romans used in their contracts and marriages; it would not be impertinent to annex the manner of their divorcements, which upon just causes were permitted. † There were two manner of divorcements, the one between parties only contracted, the second between parties married. The first was properly called *Repudium*, in which the party suing for divorcement used this form of words, *Conditione tua non utar*. The second was called *Divortium*, wherein the party suing it, used these words, *Res tuas tibi habeto: vel res tuas tibi agito*. Both these kinds were termed *Matrimonii renunciaciones*, renouncing or refusal of marriage. Where we must note, that instead

‡ Alex. Gen.
dier. l. 2. c. 5.
‡ Lipf. Elect.
l. 1. c. 17.

‡ Vid. F. Syl.
pro Cluent.

* Sig. de jur.
Rom. l. 1. c. 6.

‡ Rosin ant.
l. 5. c. 38.

of this verb *renunciare*, divers good Authors do use this phrase, *Mittere*, or *Remittere nuncium*: as *C. Caesar Pompeia nuncium remisit*, *C. Caesar* hath divorced *Pompeia*. And alluding hereunto *y. Cicero* saith, *Virtuti nuncium remisit*, i. e. he hath cast off all goodness, he hath even divorced virtue. Secondly, we must note, that this verb *Renuncio*, doth not only signifie to renounce or to refuse, but many times in *Tully*, it signifieth to declare or pronounce a Magistrate elected, as *Renunciare Consulem, Praetorem, &c.* The reason why in matrimonial contracts it signified to renounce or refuse, was because in these divorces they did sometimes send to their wife, *per nuncium*, by a messenger, some bill or scrole of Paper, containing the causes of the divorce. Moreover we are to observe, that in these divorces, the Ceremonies were quite contrary to those Marriages; the just causes being fore-signified to the Censors, the Marriage tables were broken, the dowry restored, the keys of the house taken from the woman and she turned out of doors: all which Ceremonies are at large treated of by *Thomas Dempster. l. 5. Antiq. Rom. c. 38.*

CAP. 21.

Quo apparatu, quibusq; ceremoniis apud veteres defuncta corpora igni tradebantur.

THe Romans in ancient time, when they perceived a body dying, had such a custome, that the next of the kin should receive the last gasp of breath from the sick body into his mouth, as it were by the way of kissing him: (to shew thereby how loth and unwilling they were to be deprived of their friends) and likewise should close the eyes of the party being deceased: Whence *Anna* said unto her sister *Dido* now dying,

2 *Extremus si quis super balitus errat*

2 *Virg. Æn. 4.*

Ore legam

And *Penelope* wishing that her son *Telemachus* might outlive

live

live her self and his Father, writeth to her husband in this manner. *Ille meos oculos comprimit, ille me*

After the body had thus deceased, they kept it seven days unburied, washing the corps every day with hot water, and sometimes anoynting it with Oyl, hoping that if the body were only in a slumber, and not quite dead, it might by these hot causes be revived.

*Per calidos lavices aliena undantia flammis
Expediunt, corpusq; lavant frigentis & ungunt.*

In these seven days space, all the dead mens friends met together now and then, making a great out-cry or shout with their voices, hoping that if the dead body had been only in a swoon or sleep, he might thereby be awaked. This action was termed *conclamatio*. Whence when we have done the best we can in a manner, and cannot effect it, we say proverbially *conclamatum est*, for this third conclamation or general outcry, (which was always upon the seventh day after the decease) was even the last refuge, at which if the body did not revive, then was it carried to burial, being invested with such a gown as the parties place or office formerly had required. Those who had the dressing, chesting, or embalming of the dead corps, were called *Polliniflores*: After they had thus embalmed the corps, they placed it in a bed fast by the gate of the dead mans house, with his face and heels outward toward the street according to that of *Persius*;

*—Tandemque beatulus alio
Compositus lecto, crassisque lutatus amomis,
In portam rigidos calces extendit—*

Herewith accordeth *Homer*, speaking of *Patroclus* his Funeral.

*Ὅτι μοι ἐν κλισίῃ δεδρυγμένος ὄξυ χαλεφ
κείται ἀνὰ πύλινον τραπεζῆν— id est,
Qui mihi in tabernaculi confectus acuto ere
Jacet ad vestibulum conversus.*

This ceremony was properly called *corporis collocatio*: and fast by this bed near the gate also was erected an Altar,

tar, called in Latine *Acerra*; upon which his friends did every day offer incense until the burial: The gate on the outside was garnished with Cypress branches, if the dead man were of any wealth or note, for the poorer sort by reason of the scarcity of the tree, could use no such testimony of their mourning.

u *Et non plebeius luctus testis cupressus.*

u Lucan.

In the seven dayes space, certain men were appointed to provide all things in readiness for the funeral; which things were commonly sold in the *x* Temple of *Libitina*, from whence those providers were termed *Libitinarii*, though sometimes this word *Libitinarius* doth signify as much as *capularis*, an old decrepit man ready for the grave. Upon the eighth day a certain Crier in the manner of a Belman went about the Town to call the people to the solemnization of the funeral in this form of words; *Exequias y L. Tito L. Filio quibus est commodum ires. Jam tempus est. Ollus ex adibus effertur.*

y Rosi. ant.
l. 5.

After the people had assembled themselves together, the bed being covered with purple, or other rich covering, the last conclamation being ended, a Trumpeter went before all the company, certain poor women called *Præfixæ* following after, and singing songs in the praise of the party deceased: where we must note, that none but the better sort had a Trumpet sounded before them; others had only a Pipe; *z Senatoribus & patriciis tuba, minoribus & plebeiis tibia caneant siticines*, this word *Siticines*, signifying either a Trumpeter or Piper, because they did both *ad sitos*, i. e. *mortuos canere*. Again, except it were one of the Senators, or chief Citizens, he was not carried out upon a bed, but in a Coffin upon a Bier. Those that carried this bed were the next of the kin, so that it fell often among the Senators themselves to bear the corps; and because the poorer sort were not able to undergo the charges of such solemnities, thereupon were they buried commonly in the dusk of the evening, and hence *a vespertino tempore*, those that carri-

x Alex. Gen.
dier. l. 3.

ed the corps were termed *vespa*, or *vespillones*. In the burial of a Senator or chief Officer, certain waxen Images of all his Predecessors were carried before him upon long poles or spears, together with all the ensigns of honour which he deserved in his life-time. Moreover, if any servants had been manumized by him, they accompanied the mourners, lamenting for their masters death. After the corps, followed the dead mans children, the next of the kin, & other of his friends, *atrati*, i.e. in mourning apparel. From which act of following the corps, namely a *sequendo*, these funeral rites have been termed *Exequia*, as *Donat.* hath observed upon that of *Terence*, *Funus interim procedit, nos sequimur*; which rites, because they were performed as debts due unto the party deceased, hence were they also called *Iusta*. *Eo dicuntur iusta, quod jure mortuis satisfieri debent a vivis.* *Polyd. de invent.* l. 6. c. 9. The corps being thus brought unto their great Oratory called the *Rostra*, the next of the kin *laudabat a defunctum pro rostris*, i. e. made a funeral Oration in the commendation principally of the party deceased, but touching the worthy acts also of those his Predecessors, whose images were there present. The Oration being ended, the corps was in old time carried home again in manner as it was brought forth.

Sedibus hunc referente suis & conde sepulchro.

But afterward by the law of the twelve tables, it was provided, that no man besides the Emperor and Vestal Nuns should be buried within the City, though some upon especial favour have obtained it. The manner of their burial was not by interring the corps, as in former times it had been, but burning them in a fire, & the reason thereof being to prevent the cruelty of their enemies, who in a merciless revenge would at their conquests dig up the buried bodies, making even the dead also subjects of their implacable wrath. This fire before the burning was properly called *Pyra*: in the time that it burned, it was called *Rogus*; & *quod tunc temporis*

Rogari,

a *Suet. C. Jul. Caesar*, c. 6.

b *Salmuth. in Pancirol. librorum deperdit. de exequiis.*

c *Serv. Æn.* 5.

Rogari solerent Manes; after the burning, then was it called *Bustum*, *quasi beneustum*. This *Pyra* was alwaies built in form of a Tabernacle, as it is * above more at large to be seen; whither after the dead man had been brought, his friends were wont to cut off one of his fingers, which they would afterward bury with a second solemnity. The charges at funerals growing by this means to be doubled, the law of the 12. Tables provided in these words. *Homini mortuo ossa ne legito, &c.* that no mans finger should be cut off, except he died either in the war, or in a strange country. Where we must observe, that *lego* in this place doth signifie as much as *adimo* or *aufero*, in which sense we call him *sacrilegum, qui legit, i. qui adimit & auferi sacra*. After the dead body had been laid upon the *Pyra*, then were his eyes opened again to shew him heaven, if it were possible, *d* and withall an half-penny was put in his mouth, they superstitiously conceiting that that half-penny was *naulum Charonis*, the pay of *Charon* the supposed ferry-man of Hell, who was to carry mens souls in his boat over the *Stygian Lake* after their decease. About this *Pyra* were first many boughs of Cypress trees to hinder the evil scent of the corps to be burned. The dead body being thus laid upon the *Pyra*, the next of the kin turning his face averse from the *Pyra*, did kindle the fire with a torch: After this, commonly certain Fencers hired for this purpose did combat each with other, till one of them was killed, they were termed *bustumarii* from *bustum*. The blood of those that were slain, served instead of sacrifice to the infernal gods, which kind of sacrifice they termed *Inferiæ*. *e Inferiæ sunt sacra mortuorum que inferis solvuntur.* Anon after the body had been burned, his nearest friends did gather up the ashes and bones, which being washed with milk and wine, were put into certain Pitchers called *urnæ*: whence this word *urnæ*, is often used by the Poets, to signifie a Grave or Sepulcher, as

— *Una requiescât in urna*: Ovid. Met. lib. 4.

* Vid. sup. p. 30.

d Alex. G. n. dier. l 3.

e Servius.

Rosin. ant.

g Servius in
Æt. 18. l. 7.
h Hub. c. n. Ci.
ep. am. l. 4.

i Hier. Ferari-
us in Cic. orat.
Philip.

k Servius in
Æneid. l. 5.

l Antefig. in
Ter. Adelph.
Act. 4.

Though properly *sepulchrum* was in old time a vault or arched roof; ~~ground~~ about the Walls whereof were placed certain coffins called *loculi*, within which those former *urnæ* were laid up and kept, namely, two or three in each coffin. Now these funeral solemnities were commonly towards night, inasmuch that they used torches; these torches they properly called g *funalia a funibus cetera circumdatis*, unde & *funus dicitur*. b Others are of opinion, that *funus* is so said from the Greek word *φύσις*, signifying death or slaughter. The bones of the buried body being thus gathered up, then did the Priest besprinkle the company with clean water thrice, and the eldest of the mourning women called *Præfice* with a loud voice pronounced this word *Illicet*, thereby dismissing the company, (the word signifying as much as *Ire licet*;) Then presently did the company depart, taking their farewell of the dead body in this form of words: *Vale, vale, vale; nos te ordine quo natura permisit seque- mur*. If any of these ceremonies had been omitted, i then was it termed *sepultura insepulta*, in the same sense as *nuptiæ* formerly were termed *innuptiæ*. The old and aged men were invited, after the burial, to a feast, or funeral banquet, called *filicernium* k *quasi filicernium*, i. e. *cana supra filicem posita*, their custom being to eat that feast upon an Altar of stone; and because this feast was only eaten at funerals, and by the elder sort, l hence figuratively this word *filicernium* doth sometimes signify an old cripple ready for the grave. The poorer people in stead of a feast, received a dole or distribution of raw flesh: this dole was termed *Visceratio*. Moreover there was a potation, or drinking of wine after the burial, called *Murrata*, or *Murrhina potio*, which afterwards the law of the 12. Tables for the avoiding of expences did prohibit, as likewise for the moderating of grief in the mourners, it did prohibit the use of this word *Lessum*, [*Neve lessum funeris ergo habento*] for that word was often ingeminated in their mourning as a doleful ejaculation, or note of

of inward sorrow. This sorrowing or mourning was in some cases utterly prohibited, in others limited; *m* namely, an Infant dying before he was three years old, should not be mourned for at all; because he had scarcely yet entered into this life. Elder persons were to be mourned for so many dayes as they were years old. Wives were permitted to mourn for their husbands (*Alexander* addeth, also children for their Fathers) ten moneths, if they would, within which time the widow could not marry another husband without infamy and discredit. *Polyd. de Juven. l. 6. c. 9.* Here we may with *Revardus* observe a distinction between *Lugere* and *Elugere*; *Lugere* signifieth no more than to mourn some part of the time prescribed, *Elugere* to mourn the whole and full time.

*m Alex. Gen.
dier. l. 3. c. 7.*



LIB. II. SECT. III.

Of the Roman Games.

CAP. I.

De ludis Megalensibus.

THe Playes usually exhibited by the Romans, may be divided into three sorts; some were *Ludi sacri*, others *Honorarii*, others *Ludicri*. Those were termed *Sacri*, which were instituted immediately to the honour of the gods: Such were these that follow in their several Chapters. *Megalenses ludi*, they are called simply *Megalesia*, from the Greek word μέγας, signifying *Magnus*, because they were performed in the honour of *Cybelle*, called *Magna mater*: of which I have spoken formerly, and there also discovered the manner of this feast. Only here take notice of that which is not mentioned there, namely, that these Games began *a pridie Nonas Aprilis*, i. e. on the fourth of *April*, and continued six dayes after: as appeareth by divers Authors, but more especially by *Ovid*, who could not easily be corrupted, *Ovid. Fast. lib. 4.* He having spoken of the rising of the *Pleiades*, which is on the second of *April*, addeth,

Ter-

Of the Roman Games.

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*Ter fini perpetuo calum versetur in axe,
Ter jungat Titan, terq; resolut equos,
Protinus inflexo Borecyntia tibi cornu
Flabit, & Idea festa parentis erunt.*

This I note, that the erriour crept into a *Livy* may be observed, who treating of the matter in hand, saith, *In* *adem Victoria quæ est in Palatio, pertulere Deam pridie Idus Aprilis, isq; dies festus fuit: populus frequens dona Deæ in Palatium tulit; Lætiſſimum, & Ludi fuerunt, Megaleſia appellata.* That is, that these Plaies were celebrated upon the twelfth of April. But in the judgment of many Expositors, we are to read *Pridie Nonas*, for *Pridie Idus*. Moreover, servants might not be spectators here. And because the *Prætors* did frequent these sports in their purple and best robes, *b* hence grew that Proverb *Purpura Megalenſis*. To the younger sort at this time, liberty was granted to counterfeit all mens gestures and speeches, without distinction of degree or age. *c* They were sometime termed *Ludi scænici*, though properly, *Ludi scænici* signifieth Stage-plays, and were performed in the honour of *Bacchus*.

b Ant. Const.
in Ovid.
Fast. l. 4.
c Jul. Scalig.
Poet. l. 1. c. 29.

C A P. 2.

Ludi Cereales.

THAT these Games were performed in the honour of *Ceres*, is by none doubted. In them was represented by the *Roman* Matrons, *Ceres* her lamentation of her daughter *Proserpina*, taken away by *Pluto*, the *Roman* men beheld these plaies in white gowns: the women performed the sacred and holy Rites in a white garment also. Among whom it was observed, that then they thought their service grateful to the Gods, when it was performed by those that were joyful, and free from all funeral pollutions. At this time there was a solemn going in procession, and carrying about their Gods in the Cirque, this solemnity was properly called *Pompa*.

Circus

Circus erat Pompa celebr, numeroq; Deorum,

Primq; ventosis palma petetur equis,

Hic Cereris ludii, &c. Ovid. Fast. l. 4.

d Text. de
sp. G. c. 7.

The manner of this solemn shew, which as I noted, was properly called *Pompa*, is described & thus by its particulars; that there was *Simulachrorum series, imaginum agmen, currus, thesæ, armamaxæ, sedes, corona, exuvie*, i. e. *First*, in this solemn procession were carried about the Images of the Gods. *Secondly*, the Images of well-deserving men. *Thirdly*, Chariots led up and down for greater state and magnificence; unto this *Virgil* alludeth:

Hic illius arma

Hic currus fuit.

e Vil. Franc.
jun. annot. in
Ter. de spi. G.
It. detensis vi.
Turneb. 26,
27.
f Herod. 17.

Fourthly, Pageants, so I interpret *Thessæ*, which were so called *quasi tessæ a tendendo*, as *e Ascanius* noteth, because they were carried up and down by the help of certain ropes, which to touch they counted a point of Religion. *Fifthly*, horse-litters, for that these *armamaxæ* were not Chariots, or Waggon, appeareth by him. f *Qui ex currus in armamaxam deponebatur*. They seem to have been of a compounded form, in part like Chariots, called ἀμαξας, in part like Wains, called ἀμαξαι, and thence ἀμαμαξα hath its appellation, ἀμαμαξα inquit Phavorinus, ἡ ἀρὰς ἀνδρῶν καὶ ἰδίων καὶ τινῶν ἀσπίδων ἀμαξαι, οἷον ἡ ἀρὰ καὶ ἀμαξαι, ἡ ἀνδρῶν ἀμαξαι τῆς ὕψους ἡ ἀγρῶν τῆς ἀνδρῶν. In which words, besides the Etymology expressed, the use hereof is declared to be for the carriage of men. That as the Chariots went empty for greater magnificence, and as in their Pageants were carried the *Simulachra Deorum*, according to that, g *Thessæ Deorum vehiculum*, so in these Horse-litters were carried men; or rather that same *agmen imaginum*, which was the second particular. *Sixthly*, Chairs of State. *Seventhly*, Crowns. *Lastly*, Spoils taken from their enemies. These three last I take to have been used chiefly and principally in the *Roman* supplications, or public thanksgivings for any greater victory: the custom being in such shews, when they came to such and such remarkable

g Alex. ab. A.
lex. l. 2. c. 30.

remarkable places in the Cirque, to pitch a certain chair adorned with Crowns of Victories, and spoils taken from the enemy, reputing it not the least office, *b* thus to honor their Emperor, though absent, with the Prerogative of such a Chair. Now in the preparation to this particular shew, we read that an egg was especially provided. It is observed by many out of *Macrobii* whose words are; *Ovumq; in Cerealis Pompe apparatu numerabatur primum.* The observation is general, but the reason thereof, *Inter arcana Cereris*, quite suppressed, & by none that ever I could meet with yet explained: if my conjecture may satisfy in a matter so obscure, conceive it thus: These pompous shews were various, and in the honor of divers gods, and accordingly the Romans made choice in every such solemnity, of some one principal thing in their shew unto which the glory of the present solemnity should in a more especial manner belong. Thus in the *Pompa Cirenensis*, which was celebrated in the honor of the Sun; great horses were led up and down for greater state; *Quis equis, & equestribus exercitamentis sol praeesse credebatur superstitione antiquissima.* Hence the Cirque place it self was called *ad Irasor*, and *irrodubior*. After this same manner in this *Pompa Cerealis* (which was also sometimes called *Cirenensis*, from the place where it was exhibited) an egg was chiefly and principally provided: for seeing that under the name of *Ceres*, this solemnity was performed to the Earth, how could the Earth be more honored, than by bearing about the Hieroglyphick of the whole World? as if they did intimate thereby, that even Heaven it self was beholden to the Earth.

— *Pecori frondes; alimentaue mixta fruges*

Humano generi, vobis quoq; ibura ministro. *Ov. Met. l. 2.* And such an Hieroglyphick *m Caelius Rhodiginus* proveth an egg to be, partly from its circular and Globe-like form, partly from the matter whereof it consisteth; the hard shell resembling the solid earth; the more spiritu-

b Vid. Isaac. Castab. in Su-ton. Jul. c. 76.

i Hosp. de orig. fest. Roman. l. c. 14. Alex. ab A. c. c. l. 6. c. 19.

† Solis honore novi gr. c. spectaculi Circi An iqui fanxere patres. Corri. Afric. l. 1. c. 17. vid. Dempst. l Franc. Jun. annot. in Text. de spect. c. 8.

m Cael. Rhod. l. 27. c. 17.

ous part thereof, the air; the moist and liquid part, the water; the yolk, the element of fire; yea, he noteth also, as there is *in mundo*, so likewise, *in ovo vis vitalis*, a kind of quickning and enlivening power in both. Otherwise if this opinion give not content, we may interpret the carrying about of the egg, to be in the honour of *Castor* and *Pollux*: for as there were marks, or goals in the Cirque, some in the form of *Dolphins* in the honour of *Neptune*; so there were others *πρωτὴν διμυστερῶν* *αἰνῶν* marks of a long roundness in form of an egg, in memory of *Castor* and *Pollux*, which were *ovo edisi*, according to that of *Horace*,

n Dion. l. 49.

o Tertul. de
s. c. c. 8.

Ovo prognatus eodem. Hor. Serm. 2. Sat. 1.

For the same reason haply it was, that an egg was at this time carried up and down, as the chief and principal Ensign.

CAP. 3.

Ludi Florales.

THESE games or sports were instituted in the honour of the Goddess *Flora*, that she being therewith appeased, the earth might bring forth flowers and fruits in great abundance. Of the Goddess it hath been spoken before. The time of the year when these sports were observed, *p* was upon the four last days of *April*, and the first of *May*, whence is that of *Ovid*, *Fast.* 5.

p Alex. ab A-
ex. l. 6. c. 8.

Incipit Aprili, transis in tempora Maii;

Alter te fugiens, cum venit alter, habet.

The manner thereof was, that shameless strumpets did then run up and down the streets naked, using many lascivious and obscene gestures and speeches: they were called together by the sound of a Trumpet, unto which *Juvenal* alludeth,

Dignissima prorsus

Florali matrona tuba.

Moreover, whereas in other games, Boars, Lions, and Bears were

were publickly baited, to recreate the spectators; here only Goats and Hares, and such milder beasts were hunted, because the goddess *Flora* had not the custody of Woods and Forrests, where the wild beasts ranged, but *q* Hof. de orig. t. 8. Gardens and Meadows. At this time also Elephants were brought forth into the publick view of the people, which were taught to walk on ropes, and that there is an aptness in Elephants to go forward and backward on ropes, *f* Pliny testifieth. *r* Suet. in Gal. *f* Plin. l. 8. c. 3.

CAP. 4.

Ludi Martiales.

OF these sports there is not much spoken: they were observed upon the first of *August*, because on that day the Temple of *Mars* was consecrated. They were first instituted by *Numa Pompilius*. *t* Dion. l. 60. *u* Tertul. de sp. c. 5.

CAP. 5.

Ludi Apollinares.

There was an ancient Poet called *Martius*, whose writings, as likewise out of the *Sibylline Oracles*, the Romans were admonished to dedicate certain Games to *Apollo*. At the first celebration of them, it is reported, that a sudden and unexpected invasion of enemies enforced the Roman people to forsake their sports, and to betake themselves to weapons: in which time of their distraction, a cloud of Darts and Arrows was seen to fall upon their enemies, so that they presently returned Conquerors unto their sports, where at their return they found one *C. Pomponius*, an old man, dancing to a Minstrel, and being very joyful, that their sports had been continued without interruption, they cryed forth, *Salva res est, salva senex*. Which speech after became proverbial, and is still used, when a sudden evil is a seconded with a good event, beyond hope or expectation. *x* Liv. lib. 5. dec. 3. *y* Macrob. l. 1. Sat. c. 17. *z* Suet. Poem. Fest. vid. Hof. de orig.

CAP. 8.

De ludis Romanis, qui & magni, & Consuales, & Circenses dicti.

THESE solemnities are sometimes called *Romani ludi*, because of their antiquity amongst the *Romans*, being first instituted by *Romulus*; sometimes *Magni ludi*, either because of the great charge and expence of money at that time, or because they were performed in the honor of their great God *a Neptune*, called also *Consus*, because he was reputed the God of secret Counsels, whence the solemnities themselves are sometimes called *Consualia*: whereas many of the *Roman* Temples, for certain mysterious significations had their peculiar manner of building. *b Servius* noteth that the Temple in the great Cirque, dedicated to *Consus*, was covered, to signifie that Counsels must be secret and concealed. Likewise for the same reason, *c* his Altar was made under the earth, not appearing in publique view, save only in the time of these solemnities exhibited. The chief ceremonies used at this time, consisted in the adorning of their Horses, and Asses with garlands, wherein *d* they thought that *Neptune* was honoured, who was the first Author and inventor of horse-riding: hence *Neptune* himself is called *ivovs*. This festival was first instituted by *Evander*, in the honor of *Neptune*, under the name of *ivovs*, and *e* thence the feast was called *ivovs*. Afterward it was renewed by *Romulus*, in the honour of *Neptune* likewise, but under the name of *Consus*, because *Romulus* needed a God of Counsel to assist him in that designment of his, for the violent taking away of so many *Sabine* women, as were taken away at the first celebration of these games. The reason of *Romulus* his institution of them, being no other but that upon the same of these new sports, many *Sabine* women flocking thither to be spectators, his project might be the sooner effected. These and the Cirque shews,

a Tert. de Spect. c. 5.

b Serv. in Vir. Æn. l. 8.

c Alex. ab Alex. l. 5. c. 26.

d Vid. Said.

e Dion. Hal. lib. 1.

shews, so often mention'd in ancient Authors, at first were all one, as appeareth by that of *f Valerius*. *Ad id tempus* (Val. Max. *Circensi Spectaculo contenta erat civitas nostra, quod prius* l. c. 4. *Romulus raptis virginibus Sabinis Consualium nomine celebravit.* Touching these Cirque-shews, some are of opinion, that they were performed in the honor of *Ceres*; this *Julius Scaliger* g. disliketh, and he is of opinion, they were celebrated in the honor of *Neptune*: others are of opinion, they were instituted in the honor of the *Sun*. All opinions may be reconciled, if we understand first, those Authors who ascribe these Cirque-shews to *Ceres*, to speak of the *Cereales Ludi*, which we read sometimes to be called *Circenses*, because they were exhibited in the Cirque. Secondly, if we distinguish the *Pompa Circenses*, from the *Circenses Ludi*, and from the *Cereales Ludi*: the *Cereales Ludi*, were instituted in the honor of *Ceres*, the *Circenses Ludi*, in the honor of *Neptune*; the *Circenses Pompa* in the honor of the *Sun*. And furthermore, for the full understanding hereof, we must know that the horses brought into the Cirque at this time, were of two sorts: some were only *womynoi*, such as were led up and down for shew and state; I understand *Alex. ab. Alex.* to speak of these horses, when he saith *b* horses were consecrated to the *Sun*: nay I understand those horses mentioned *King. 23.* to have been of the like superstitious invention, where it is said that *Josuah* did put down the horses given to the *Sun*, and the *Chariots of the Sun*. That practice I say hath near affinity with this of the *Romans*, but I think it to have been originally derived to the people of *Judah*, from the *Persians*, who also accounted them holy to the *Sun*; and the *Persian King* when he would shew himself in great state, caus'd an exceeding great horse to be led up and down, which was called *Equus solis*. Other horses were for exercise and race, we may call them *seymoi*, the institution of these I suppose to have been in the honor of *Neptune*. The prizes of maneries exercised in time of this Cirque-shew were many; fencing, and

b Alex. ab A-
ex. l. 3. c. 12.

i Cael. Rhod.
ant. l. 8. c. 2.

and that until one of the combatants were killed in the place; fighting with beasts; wrestling, running of races on foot; jumping, and leaping; horse-racing; sea-skirmishes exhibited in some river; coach-races, & fighting at wholebats. Howsoever the nature and manner of these games are in some measure understood by the very names; yet a more large discourse concerning the two last will be very behoveful, for the more full understanding of the Roman history. These coach-races, when this manner of race was first instituted, were divided into two companies, which they termed, *Factiones albas & rufas*, distinguishing each faction or company by the different color of their k coats. Afterward they were divided into four companies, distinguish'd alwayes by their colors, whence came that distinction, *Factiones Prasina, Veneta, Russa, Albata*, which colours may thus be Englished: The first signifying a deep green: the next a kind of russet inclining to red: the third a Venice blew, or Turkey colour: and the last a perfect white. Of these *l Tertullian* speaketh as followeth: *Aurigis coloribus idololatriam vestierunt, & ab initio duo soli fuerunt, albus & rufus. Albus hyemi ob nives candidus, rufus aestati ob solis ruborem vorerunt: sed postea tam voluptate, quam superstitione proventus rufus alii Martii, alii album Zephyris consecraverunt: Prasimum vero Terra matri, vel verno: Venetum Calo & mari, vel autumnus.* As the Emperour, so the people sometimes favoured one faction or company, sometimes another: & accordingly as they favoured the company, they would lay wagers on their side, which wagers they termed by a peculiar name *Sponsiones*; thus *m Turnebus* interpreted *Tertullian*, where he saith, that the people flockt to these races, sometimes for one reason, sometimes for another, but sometimes *n Sponsionibus concitatus*, i.e. stirred up with a desire of betting, or laying wagers. To these four *o Domitian* in his time added two other companies, the one wearing cloth of gold, the other of purple; but these latter remained not long in use. Their fighting at wholebats they

† H. n. Salm.
in Panir. c.
de Cir. max.

l Ter. de spect.
cap. 9.

m Turneb. ad
l. 8. c. 4.

n Tertul. de
spect. c. 6.
o Suer. in Do-
mician. c. 7.

they termed *bellare cestu*. The manner of the fight conceive thus; the combatants had in each hand a strap of leather, with which each struck at the other (for we must know, that this kind of fight succeeded fisticuffs; and because in fisticuffs the party striking, did by the blow as well hurt his own fist, as he did him that was stricken, hereupon they invented this other kind of fight with leathern switches) these leathern switches they called *Cestus*, from the Greek *κηδε*; signifying a belt or girdle; to make the fight more dangerous, they did in alter-times tie pieces of Lead, or Iron, at the end of these leathern straps, so that they did with the force of the stroke, often dash out one anothers brains; and because by the weight of the Lead or Iron, the Strap might chance to fly out of their hands, they caused each strap to be tied fast to their arms & shoulders; neither was this without reason; for those Iron or Leaden pieces could not but be very weighty, being made in the bigness and *q* form of Rams Horns. Lastly, these Cirque shews had their appellation, *Circenses*, either from the great Cirque, or shew place, called *Circus maximus*, where the games were exhibited; or from the swords wherewith the players were environed, as one would say *Circenses*. They much resembled those Grecian games called *stamina Olympics*, where the runners with Chariots were hem'd in on the one side with the running river; on the other with swords pitched point-wise, that they should hold the race on directly & not swerve aside without danger. Some have thought them to be the same with *ludi Gymnici*, so called from *γυμνός*, naked, because that those which did perform those kinds of exercises, did either put off all, or the greatest part of their cloaths, to the intent that they might the more readily and nimbly perform their games; for which purpose they did also anoint their bodies with oil; whence we say, when a man hath lost his cost & labor *Operam & oleum perdidit*; *oleum* in this place signifying cost & charges.

p Jul. Scal. lib-
poet. c. 22.

q Aldus Ma-
nut. lib. de
quæst. per. epi-
stolam, ep. 8.
vid. Rolin. ant.
l. 5. c. 5.

r Rolin. ant.
l. 5. c. 5.

charges : so that the proverb was the same with that of the Coblers Crow, *Opera & impensa perit.*

C A P. 7.

Ludi Capitolini, & Agones Capitolini.

† Liv. dec. 1.
& lib. 5.

† Sueton. in
Domit. c. 4.

† Rosin. ant.
l. 5. c. 18.

THe first institution of these games † Livy sheweth, where likewise he intimateth the reason why they were called *Capitolini*, to have been in the honor of *Jupiter Capitolinus*, because he preserved the *Capitol*, when it was assaulted by the *Gauls* : we must distinguish these games from those other shews called *Agones Capitolini*, instituted by *Domitian* : For those *Ludi* were exhibited yearly, & these *Agones* every fifth year : In those was celebrated the deliverance of the *Capitol* : In these *Rhetoricians*, and *Poets*, and men of other professions contended for the victory : and hence † *Rosinus* thinketh the *Poets laureat* to have taken their beginning. He is likewise of opinion, that *Juvenal* alludeth unto these solemnities.

— *Sed cum fregis subsellia versu,*
Esurit, insatiam Paridi nisi vendis Agaven. Sat. 7.
Although the allusion may be granted, yet herein I think *Rosinus*, though otherwise learned, to have been mistaken, in interpreting *Fregis subsellia*, by *Non steris, Excidis*, or *Non placuit* : as if the Poet of whom *Juvenal* speaketh, had been conquered at this time. In my opinion neither will the purpose of *Juvenal*, nor that phrase of speech admit that construction. Not the purpose of *Juvenal* ; for the scope and drift of that Satyr, is to shew that he the Poet never so pleasing, or let him give full satisfaction to the people, yet he shall receive no benefit thereby, but a vain and empty applause, so that he shall be compell'd to sell those very Poems which are received with so general an approbation, to buy victuals, and prevent hunger. Neither doth that interpretation agree with that phrase : for *Frangere subsellia*, doth rather on the

a Rosig. ant.
l. 5. c. 1.

b Pol. Virg. de
invent. l. 8. c. 1.
c Ovid. Trist.
lib. 2.

least an hundred years *a seculum in centum annos extendi existimabant*; Because the full and complete age of man, might extend it self to the hundred years, and seldom to any above an hundred: thence it was, that the form of words used by the publick Cryer in proclaiming these Games, was, *b Venite ad Ludos quos nemini mortalium vidis, neque visurus est.* Unto which *c Ovid* alludeth, *Trist.*
l. 2.

Carmina

*Jusserat & Phœbo dici, qua tempore Ludos
Fecit, quos ætas aspiciit una semel.*

d Alex. ab A.
lex. l. 6. c. 9.

e Suet. Claud.
cap. 21.

f Hosp. de
orig. test.

But the Emperors being ambitious of honour, and desirous to be spectators of the Games in time of their own Reign, they did often anticipate the time. *Claudius* *Cæsar* among the rest, proclaimed them within a sixty three years after *Augustus* had observed them; which occasioned the people to deride his Cryer, inviting the people to those shews and sports, which no man living either had seen, or should see again: because *e* some who were Spectators, nay, Actors in those Solemnities exhibited by *Augustus*, lived at the same time when *Claudius* caused this to be proclaimed. These plays were also called *Tarentini ludi*, not from the City *Tarentum* in great Greece, but from a certain place of the same name near *Rome*, adjoining to the River *Tiber*. All the Theatres at this time were filled, and Sacrifices offered throughout all the Temples, for the space of three days and three nights; which giveth light to that of *Ausonius*,

Trina Tarentino celebrata trinoctia ludo.

The first day the Emperor and the *Quindecim-viri*, early in the morning ascended the *Capitol*, and there offered sacrifice according to the wonted manner: thence they departed to the Theatres, to perform solemn plays in the Honor of *Apollo* and *Diana*. The second day the Noble Matrons assembled together in the *Capitol*; they offered up supplications unto their Gods, they fasted and sung hymns in the Honour of the Gods. The third day, seven and twenty Boys, going along three and three

three, and as many maids in like manner, all of them Nobly descended, and having both Father and Mother alive, sung Verses, in which they commended the Roman State to the protection of the immortal Gods. This was termed *Pæan* *concinere*; which word *Pæan*, though it signifieth primarily an hymn, or song of Praise made to *Apollo*, who was called *Pæan*, *g* from *παῖν*, *a feriendo*, because of his victory gotten of the *Python*; yet *b* sometimes, and so in this place, it denoteth the praises in general of all the Gods. Again, the phrase intimateth an elevation of the voice in singing, with a kind of rising from one note to another. Thus *Turnebus* maketh *παυροῖον* and *μυροῖον* to be opposite; *i* *Videtur autem Pæan contentionis vocem esse, minoris remissionis.*

g Cæsar. Rhod. Arist. 7. c. 4.
b Servius in Æn. lib. 6.

i Turneb. adv. lib. 1. c. 12.

C A P. 9.

De ludis Plebeis, Compitalitiis, Augustalibus, Palatinis, Taurilibus, & votivis.

Other Games there were performed in the Honor of the Gods, which are rather named by Authors than explained, they are these that follow: *Plebei ludii*, *k* which were celebrated in memory of the liberty procured to the Roman state by the succession of Consuls in the place of Kings; or as others say, in the memory of the reconciliation wrought between the Senators and the Commonalty, by reason of their great oppression at that time, when the Commons in a kind of mutiny departed to the *Aventine Mount*. 2. *Compitalitii Ludii*, so called because they were usually solemnized in *Compitiis*, (*i. e.*) in the cross-ways, and open streets: *l* they were first ordained by *Servius Tullius*, in the Honor of those Gods whom they termed *Lares*, in the memory of his Nativity. The form of words used by the *Prætor*, when he signified to the people the time of these solemnities, was as followeth: *m* *Die noni post Calendas Januarii Quiritibus Compitalia erunt.* Concerning which words *Gellius* noteth, *n* *Die noni*

k A. Et. *b* A. lex. l. 6. c. 19.

l Plin. lib. 36. cap. u. t.

m Macrobi. l. 1. Saturn.
n A. Gel. noct. At. l. 10. c. 14.

• Alex. ab A-
lex. l. 6. c. 19.
p. L. 56. c. u. t.

q F. fl. vii.
Hof. in de
Orig.

Turn. b. adv.
l. 1. c. 17.

ni Prætor dicit, non die homo, neq; Prætor solum, sed pleriq;
omnis vetustas sic locuta est. 3. *Augustalis ludi*, performed
in the Honor of *Augustus Caesar*. 4. *Palatini ludi*; so na-
med, because they were performed in the *Palatine* mount.
Some are of opinion that they were instituted in the
Honor of *Julius Caesar*, others in the Honor of *p. Augu-*
stus. 5. *Taurii ludi*, which received their name from
Taurus, a Bull; they were first ordained by *Tarquinius*
q Superbus, when there hapned a great pestilence amongst
the women with child, occasioned by much Bull-flesh
sold unto the people; for the removal of which plague,
these games were instituted, in Honor of the Infernal
Gods. They are sometimes also called *Bovilis & Bupetis*.
6. To these we may add their *Votivos ludos*, which were
also performed in the Honor of some God, upon some
special vow made. For whensoever the *Romans* did un-
dertake any desperate war, then did some *Roman* Magi-
strate *Vovere ludos, vel templa*, conditionally that they got
the conquest: whiles the Magistrate uttered this his vow,
he was said *Vota nuncupare*, or *facere vota*, i. e. to make a
solemn vow unto the Gods: the vow being thus made,
he which made it did write it in paper, and with wax
fastned it to the knees of their Gods, thereby binding
himself the more strongly to the performance; and this
in *Pliny* his phrase is *signare vota*: *Juvenal* termeth it
Genus incrare deorum, Sat. 10.

After this he was said to be *Voti reus*, i. e. conditionally
bound and obliged to the performance thereof, so that
the Gods might challenge the thing vowed as due debt,
if they granted his request; yea, after that the thing crav-
ed had been obtained, then was he said, *Damnatus voti*,
vel voto (i. e.) simply bound to the performance of the
vow; so that by consequence, *Damnari voti, vel voto*, is to
have ones desire accomplished. Thus have we gone over
the chief and principal games which were merely *sacri*,
tending to Religion: the second sort were *Ludi honorarij*,
of which in the next Chapter.

CAP. 10.

De Gladiatura.

Such Sports and plays which were performed by private men upon their own purse and charges, they seeking thereby to wind themselves into the affections of the common people, and to make way for their own preferment and honour, were termed *a Ludi honorarii*; and howsoever any game or shew might be tendred unto the people in this respect, yet those of this nature were for the most part, either *fencing or stage plays*; *fencing*, because the fight thereof was so often freely bestowed upon the people, is therefore many times denoted by the Latin word *Munus*; and those that bestow these fights, are for the same reason termed *Munerarii*. The first original of this fencing and sword-playing, to the killing of one another, hath been derived *e* from a customary practice among the Heathens, at the Burials of their friends, who were perswaded that the shedding of mans Blood would be propitiatory for the Soul deceased; hence would they buy captives and slaves, purposely to be sacrificed at Burials: afterwards, that this wicked spectacle might be the more pleasant and delightful, they changed their sacrifice into a fencing with Arr, where the combatants did fight for their lives. This particular kind of Fencers were called *Bustumarii*, from *Bustum*, the place where dead mens bodies were burned: but ambition and cruelty made these bloody spectacles in after-ages more frequent, insomuch that prizes at last were plaid not only at the Tombs, but in divers other places as the *Cirque* and *Amphitheatre*, &c. yea, they were given as legacies by will and testament unto the people. These prizes have continued many dayes together, and the number of the Combatants sometimes exceeded number. At the first none would thus hazard their lives but Captives, and fugitive servants, which were enforced there-

a Hist. Casaub.
bon. in Suet.
Aug. 32.

b Lips. Sat.
l. 1. c. 7.

c Tertul. l.
Servius in Aen.
neil. 10.

d Sen. ep. 100.

thereunto, being bought for that purpose; afterward those that were free-born suffered themselves to be hired, for which cause they were termed *Auctorati*, hirelings; and yes, noblemen themselves sometimes, by reason of their decayed estates, sometimes, to deserve the Emperor his love endangered their lives in this fight. Those that were hired, bound themselves by a solemn oath to fight unto death, or else they would yield their bodies to be whipt, yea, and to be burnt: unto which *Horace* alludeth:

e Serm. 17.

Quid refert; uri, virgis, ferroque necari?

Auctoratus es, an turpi clausus in arca?

f Sueton. in
Julio.

g Plin. 357.

The manner of this bloody spectacle was thus: The Master, or exhibiter thereof, did by a publick Bill give notice unto the people, what day the Prize should be performed, how many couples were to combat, what their names, &c. thereby to procure the greater expectation, and concourse of people: of this speaketh *f Sueton. Munus populo pronunciauit in filia memoriam.* g Yea, they did in tables hanged in publick view, paint and represent not only the description of the place, but also the very form and gesture of the Fencers:

— velut si

Reuera pugnent, feriant vitentque moventes

Ama viri.

Horat. lib. 2. Sat. 7.

h Lipf. Sect.
1.2. c. 19.

i Sen. ep. 117.

Upon the day appointed when all met, then were the weapons brought forth, and those were of two sorts: *Lusoria*, or *Exercitoria tela*, such as were the spear and wands, or cudgels; that they might tosse the one, and fence with the other, and shew their feats of activity; all being but preparations to that more solemn and dangerous fight ensuing. The Greeks call'd them *ισοσπινδία ανωστα*, because of the little Balls tied at the sharp end of the Weapons to prevent dangers. Others were *b Decretoria tela*, so called, *Quia hac velut decreto Prætoris, five Editoris dabantur.* These were those, with which they really encountred each other for life or death; and therefore sometimes they are called *Pugnatoria*, i *Seneca* speaketh

eth of both, *Remane ista luforia arma, decretorij opus est.*

And that the Apostle doth not allude to both, I dare not gainsay, 1 Cor. 9. 26, 27. where he saith, *Non vincendum ut ex*

aliquo fieri. non percutiendum ut percutiamus. He did not beat the

Air, and flourish with those luforious and preparatory

weapons, but he did truly fight against his natural corrup-

tion, to the wounding and subduing of it, for so *καὶ ὡς πληγὰς*

signifieth *putrified wounds*. That phrase of *Seneca's* al-

luding to the fore-flourishings, is not much unlike, *A-*

liud est venilare, aliud pugnare. This fore-skirmish with

cudgels was properly termed *prælium*. *Megara* speak-

ing of *Hercules* his Conquest over the two Serpents,

assaulting him being yet an Infant, saith, in *Præliis*

Hydræ, i.e. that Combat was but the Prologue, Preface, or

Introduction to that greater which should ensue between

him and the *Hydra*. Afterwards when they betook them-

selves to naked Weapons, and to a real fight, then were

they said *Dimicare ad certum*, and *Versis armis pugnare*.

This word in *Versis* being put for *Transmutati*. In the act

of fighting, they did frame and compose their body ac-

cording to the rules of their Art, for the better warding

of themselves, and the readier wounding of their adver-

sary. This frame and posture of the body, was by a peculiar

name called *Status*, or *Gradus*, whence arose those elegant

Metaphors, *Cedere de gradu, demigrare de gradu*, to change

ones purpose, and as it were to draw back from what he

formerly intended. In like manner we say, *De mentis statu*

dejectus, or *deurbatus*: he is driven to change his mind;

or in general, he is amazed. In the conflict, oftentimes

the Sword-players after they had received any danger-

ous wounds, laid down the Weapons; which though in

extremity was a token of cowardice, neither were they

thereupon acquitted or discharged: but this depended

upon the consent either of the Emperor, or the people,

or the Master of the Shew. This discharge was properly

called *Missa*. Such was the cruelty of those times, that

many prizes were proclaimed, wherein they fore-signifi-

ed,

Senec. in voce

ὡς πληγὰς.

Sen. l. 3. cont.

Sen. H. ec.

sur. vers. 221.

Lips. Sar. l.

2. cap. 19.

ed, that such discharges should neither be craved, nor granted: whereupon *Augustus Caesar* made a Decree, wherein *Gladiatores sine missione edi prohibuit*. Those combatants that overcame, received by way of reward, sometimes money, sometimes a garland, or Coronet of Palm tree, wound about with certain woollen ribbands, called *Lemnisci*: the coronet it self was therefore called *Palma lemniscata*, and hence figuratively hath *Palms* been translated to signifie the victory it self; and such a man as hath often got the prize, we say proverbially, that he is *Plurimarum palmarum homo*. The reason why the Palm-tree, rather than any other tree, should be given in token of victory, is rendred by *q* divers approved Authors to be this: because the Palm-tree, though you put never so ponderous and heavy weight upon it, yet it will not yield, but rather endeavor the more upward. Sometimes the reward given by the people was one of those Wands or Cudgels used in the fore-skirmish. That Wand was properly called *Rudis*, and it was given in token of liberty, signifying thereby, that he should thenceforward lead his life free from shedding of blood: according to which custom, this word *Rudis* hath been used to signifie any other kind of freedom or discharge: Whereupon *Horace* said of himself, that he was *Rude donatus*, i. e. discharged from his pains in Poetry. Lastly, sometimes he that conquered received *Pileum*, a Cap. And here it will not be amiss, to note the difference between *Palma*, *Missio*, *Rudis*, and *Pileum*. *Palma* was only a token of victory, not of liberty or discharge. *Missio* was not a full discharge, but a kind of vacation, or respite granted upon request, until the morrow, or some other time: again, it was granted to those that were conquered, not to the Conquerors. *Rudis* was a token of a full discharge from bloody combats, whereby a mans life might be endangered: but yet with this distinction, that if it were bestowed upon free Citizens, hired to be Actors in these Galleries, then were they thereby restored to their freedom.

o Suet. Aug. 49.

p Faap. Syl. in
erat. pro Sex.
Ref.

q Arist. Prob.
7. Plur. symp.
8. q. 4. Aul.
Gel. l. 3. c. 6.

r Eras. Adag.
Rudem accip

dom also, which formerly they forfeited by undertaking such base conditions: to others which were formerly servants, or Captives, it was only a token of liberty and discharge. Notwithstanding, sometimes upon favor, such servants or Captives obtained together with their discharge from such fights, a privilege also of enfranchisement, whereby they were thenceforward incorporated among free Citizens; the token whereof was *Pileus*, for then they received a Cap: which later observation helpeth for the understanding of *Tertullian*, where he saith, *Qui insigniori cuiq; homicida leonem poscis, idem gladiatori atroci petat rudem, & pileum primum conferat.* In which speech the unjust and unreasonable practice of those Heathens is displayed, whiles they judge a manslayer to be exposed to Lions and wilde beasts, and yet notwithstanding will reward the bloodiness of sword-players. These Fencers fought with divers manner of Weapons, and accordingly had several names, the chief of which we read are these: 1. *Retiarii*, so called from *retisculum*, signifying a float-net used in fishing, because this sort of Fencers did fight with a cast-net in one hand, to catch and clasp about their adversaries head; and a three-forked engine in the other, which they used instead of a sword: of this *Juvenal* speaketh, *Sat. 8.*

Tertul. de Spect. c. 21.

— — — *Movet ecce tridentem.*

They did alwayes fight in their coats; whence the *Epitheton* floweth, *retiarii tunicati*. The reason why they bore up and down Sponges, which *Tertullian* calleth *spongia retiarii*, may be for the drying up of the blood, and wiping or stopping of the wounds: which use of sponges, *Pliny* noteth. Now because these *Retiarii* were so lightly armed, they were compelled every time they strook with their net, to retire back until they recovered their net again; and hence the second sort of Fencers which fought with them, were termed *Secutores*, ab *insequendo*, from following and pursuing these *Retiarii*. The weapons wherewith these *Secutores*

Plin. l. 3. c. 21.

Lip. Sat. l. 2. c. 7.

u Tu. nob. ad v.
lib 1. c. 10.
x Suet. in Do-
mit. c. 10.
y Alex. ad A-
lex. lib. 6. c. 22.

tores did fight, were a Target to keep off the Net off the adversary; a Sword and a Helmet. 3. *Thraeces*, so called from the *Thracian* Weapons which they used; their Target was round and little, called *Parma*: it was at first in use among the *x Thracians*, and afterwards so proper to this sort of sword-players, that *x Parmularius* signifieth such an one as favoured this company or faction of Fencers. Their sword was a crooked falcion, termed by them *Sica*. The *Roman* Souldiers did use to wear two of these, a long one on the left side, and a shorter on the right side, answerable to our sword and dagger; but the form of the *Sica* was always crooked, according to that, *Sica ὀπίσσω ἔπιθ' ἐνίκαισθαι*. Privy murderers practising the killing of men, may seem to have used the lesser, as a pocket-dagger; such are those *Sicarii*, of which there is such often mention in *Tully*. 4. *Myrmillones*; they are sometimes called *Galli*, because they were appointed after the manner of the *Gauls*. Their Weapons were a sword, a target, an helmet with a crest in form of a fish. 5. *Hoplomachi*, the name imports them to be armed in their fight; it is derived from the *Greek* ὅπλον, vel ὅπλα, arma, & μάχουαι. Until *Augustus* his time they were named *Samnites*; their Armor was an helmet with a tuft on the crest, a sword, a shield, and a boot on the left leg. 6. *Provocatores*, sometimes called *Probatores*; these usually fought with the *Hoplomachi*; their Armor was a sword, a target, an helmet, and boots on both legs. For as the footmen among the Souldiers, so likewise some of the sword players used boots for the safeguard of their legs: these boots were made of *x* iron; and so common amongst the *Grecians* in War, that boots alone are oftentimes put to express the *Grecians* whole armature, as appeareth by that useful Epitheton in *Homer*, ἐκνήμους Ἀχαιοί, i. e. *Bene ocreati Graeci*: these boots they wore sometimes on both legs, sometimes on one, according as the manner of fight required. 7. *Essedarii*, such as fought one against another out of waggons; so called from *Essedum*,

x Veget. Vide
Lipf. de milit.
lib. 3. d. 7.

dum, a wiggon or chariot. 8. *Andabati*, *quasi abaslat* *ascensores*, because they did fight on horse-back, or out of chariots. This sort of Fencers did fight winking; whence ariseth that adage, *Andabatarum more pugnare*: the phrase is fitly used, when two ignorant persons are hot in contention about that which neither understandeth. 9. *Dimacharii*, called also *Oribæ*; they fought each against the other with two swords apiece, as the first name importeth. 10. *Laquearii*, such as fought with swords and halters; the use of the halters was the same as the *Retiarii* made of their nets, to cast about their adversaries neck or arm, that they might the easier wound them with their sword. Of all these sorts of Fencers *Lipſius* treateth largely, to whom I refer the Reader. Only here let me take notice, that it was in the power of the people, to discharge any of these Combatants in time of the fight; which discharge they signified *premendo pollicem*, by holding down their thumb; or else to adjudge him to continue the fight, though in never so great danger; and this later they signified *convertendo pollicem*, by turning up the thumb;

— *Es verso pollice vulgi*

Quemlibet occidunt populariter. — Juven. Sat. 3.

Moreover, that there might be always in readiness a sufficient number of Sword-players, hence were there Schools erected, into which Captives, fugitive-servants and notorious Offenders, were sometimes condemned, sometimes sold. The masters of these Schools were called *Laniste*; the Scholars or under-Fencers trained up there for more publick and dangerous fights, were called *Familie*. The word *Familia* is often taken in this sence to signifie the whole company of under-Fencers belonging to one School; and the Master of defence is for this reason more than once by *m Sueton.* called *Pater-familias*. Moreover, when one challenged another to these combats, they signified their challenge by beckoning their little finger. *Horace* alludeth unto this:

m Suet. Calig.
26. It in Do-
mit. 10.

*Crispinus minimo me provocat, accipe si vis,
Accipe jam tabulas.* Lib. 1. Serm. 4.

o Alex. ab A-
lex. l. 4. cap. 26.

This must be understood of a beckonning, and that with the little finger, for otherwise in time of the fight, if either of the Combatants did hold up his finger, it signified thereby that he did yield, and give place unto his adversary: some think that *Perfius* had respect unto this custom, in that phrase,

———— *Digitum exere, peccas.* Sat. 5.

CAP. II.

De Ludis Scenicis.

o *Lazius de
Repub. Rom.
l. 10. c. 11.*

p *Alex. Gen.
dier. l. 6. c. 19.*

THe second sort of Plays bestowed on the people for their favour, were *Ludi Scenici*, Stage-plays. The reason of this name *Scena* may be seen before. o The first institution of them was occasioned by reason of a great sickness, which by no medicinal help could be removed. The *Romans* superstitiously conceiving, that some new games or sports being found out, the wrath of the Gods would thereby be unarmed. p Whereupon, about the four hundredth year after the building of *Rome*, they sent for certain stage-players out of *Hetruria*, which they called *Histriones*, from the *Heiturian* word *Hister*, which signifieth such a Player. *Quia Hister Thusco verbo ludus appellatur, id nomen Histrionibus est additum.* Polydor. de inven. l. 3. c. 13. Concerning the divers kinds of stage-plays I read of four, called by the Grecians, *Mimica*, *Satyra*, *Tragædia*, *Comædia*: by the Romans, *Planipedes*, *Attellane*, *Prætextate*, *Tabernarie*; in English, *Fable*, *Mimical*, *Satyrical*, *Tragical*, *Comical*. These *Mimical* Players did much resemble the Clown in many of our English stage-plays, who sometimes would go a tip-toe, in decision of the mincing dames; sometimes would speak full mouthed, to mock the Country-clowns; sometimes upon the tip of their tongue, to scoff the Citizen. And thus, by the imitation of all ridiculous gestures or speeches, in all kinds

kinds of vocations, they provoked laughter; whence both the plays and players were named *Mini*, from *μῖμος* an imitator, or one that doth ape-like counterfeit others; as likewise they were called *Planipedes*, because the Actors did enter upon the stage *Planis pedibus*, i. e. *Excelsi*, bare-footed. The second sort of plays were called *Satyræ*, a from the lascivious and wanton Country-Gods called *Satyræ*, because the Actors in the *Satyrical* plays did use many obscene Poems, and unchaste gestures, to delight their spectators. Afterward these kind of Actors as we may conjecture, did assume such liberty unto themselves, that they did freely, and without controulment, sharply tax and censure the vices even of Kings as well as of the Commons; insomuch that now we call every witty Poem, wherein the wit and manners of men are sharply taxed, *A Satyre*, or *Satyrical Poem*. *b Satyræ mordax suis & salsum genus carminis*. These plays were also called *Atellane*, from the City *Atella* in *Campania*, where they were often acted. The third sort of stage-plays were called *Tragædia*, from *τραγῆς* a Goat, and *ᾠδή*, an Ode or Song, because the Actors thereof had a Goat given them as a reward. And likewise they were called *Prætextæ*, from *prætexta* a certain Roman Robe, which these Actors did use to wear in their plays. The fourth sort were *Comædia*, from *κῶμαι* which signifieth villages; and *ᾠδή*, because those kind of Actors did go up and down the Country, acting those *Comedies* in the villages as they passed along. They were likewise called *Tabernariæ*, *a tabulis*, i. e. from the boards or pentices wherewith they were sheltered from the weather whiles they were acting. These two last sorts of plays, namely, *Tragedies* and *Comedies*, being still in use among us, it will be worth our labour to consider the communities, wherein they agree; otherwise the properties or notes of distinction by which they differ. I find three sorts of parts, wherein they agree, namely, *partes primariæ*, *accessoriæ*, *circumstantes*; parts principal, accessory, and circumstances.

z Alex. ib.

a Antesign in suis obser. de metris comicis Terent. præfixi.

b Vid. Eras. adag.

Κωμωδία, αἰσχρολογία.

circumstances, which were not so truly parts, as accidental ornaments added to beautifie the plays. The principal parts are four, in respect of the matters treated of; for, as far as the declaration or exposition of the matter in hand reacheth, without intimation of the event to ensue, so far reacheth the first part called *prolous*, which word signifieth no more than a proposition or declaration. But when the play inclineth to its heat and trouble, then ensueth the second part, called *irous*, which signifieth the intension or exaggeration of matter. The third part is called *clausus*, i. e. the state and full vigour of the play. The last part, which is an unexpected change into a sudden tranquillity and quietness, is called *catasrophe*, which by a *Metaphor* hath been transfused to signifie the end or period of any other thing; or rather the inclination unto the end, as *vita humane catasrophe*, the end of a mans life. In respect of the players forsaking the stage, the parts were five, namely, the five *Acts*. For the Actors did five times in every *Comedy* and *Tragedy* forsake the stage, and make as it were so many interruptions. The occasion whereof is supposed to have been this, that the Spectators might not be wearied out with a continued discourse or action, but that they might sometimes be delighted with variety intermixed. For those breaches and chasmes between each *Act*, were made up and supplied, either by the *Chorus* or *Musick*. Where we must note, that every *Tragedy* and *Comedy* must have five *Acts* and no more, according to that of *Horace*:

Neve minor quinto, neu sis productior actus

Fabula,

Again, we must remember, that it is not necessary that the *prolous* should always be contained in the first *Act*, though many times it happeneth so; for in *Plautus his Bragging Soldier*, the *Protafis* is found in the second *Act*; and so likewise are the other three parts, i. e. *Epitafis*, *Catastafis*, and *Catasrophe*, their bounds unbounded.

These

These Acts are divided into several Scenes, which sometimes fall out more, sometimes fewer in every Act. The definition of a Scene being *c Mutatio personarum*: whence we call a subtle *Gnatho*, which can humor himself to all persons and times, *Omnium scenarum homo*, a man fit for all parts. Now amongst the Romans it was thought unfit, that above three persons should come on the stage in one Scene.

— *Nec quarta loqui persona laborat.* Hor.

The *partes accessorie* in a Comedy are four: *Argumentum*, *Prologus*, *Chorus*, and *Mimus*. The first is the matter or subject of the Comedy. The second is the *Prologue*, which is either *ὑποδιδάξας*, such as doth open the state of the Fable, at which time there needeth no argument; or else *ἐνδιδάσκας*, such as commendeth the Fable, or the Poet unto the people; or lastly, *ἀναγορεύς*, such as shall refute the objections and cavils of Adversaries. The third is *Chorus*, which speaketh between each Act; and this *Chorus* may consist either of one, or many speakers, and that either male or female; but with this caution, that if a male be to be commended, then must the *Chorus* consist of males: if a female be to be commended, then must it consist of females. And always whatsoever the *Chorus* speaketh, it must be pertinent to the Act past, or covertly intimating somewhat ensuing.

— *Non quid medios intercinat actus,*

Quid non proposito conducatur & bareat apte. Hor.

It may seem sometimes that in the midst of the Play some other sport was interposed, as hunting, or fencing or such like, to delight the Spectators with the greater variety: whence Hor.

Si discordes eques, media inter carmina posuunt

Aur u'sum pugiles.

These interposed varieties were denoted by the name of *Diludia*; *Displaced the locus, elanto, &c Diludia posco.* Hor. The fourth and last accessory part was *Mimus*, the Clown or Fool of the Play. Of all these parts, a Tragedy hath only

only a *Chorus*. The *partes circumstantes*, or accidental ornaments were four, common to both, *Titulus, Cantus, Saltatio, Apparatus*, *id est*, the Title of the Play, Musick, Dancing, and the beautifying of the Scene. By the Scene in this place, I understand the partition between the Players vestry, and the stage or scaffold. This partition at the acting of a Tragedy was underpropped with stately columns and pillars, and beautified with paintings, resembling Princely Buildings, and the Images as well of Gods as Kings. At the acting of a Comedy, Country-Cottages and private Buildings were painted in the out-face of the partition. In the *Satyrical Plays*, the painting was over-run with shadows of mountains and woods: The *e* first of these partitions they called *Scenam Tragicam*, the second *Comicam*, the third *Satyriceam*. The differences between a Tragedy and a Comedy, which may be collected out of *f Antesignanus*, are these: first in respect of the matter, because a Tragedy treateth of exilements, murders, matters of grief, &c. a Comedy of Love-toys, merry fictions, and pretty matters; the one being *ἡμετέραν* the other *ἐξένην ἡμετέραν*. In a Tragedy, the greatest part of the Actors are Kings and Noble persons, in a Comedy, private persons of meaner state and condition. The subject of a Comedy is often feigned, but of a Tragedy it is commonly true, and once really performed. The beginning of a Tragedy is calm and quiet, the end fearful and turbulent; but in a Comedy commonly the beginning is turbulent, and the end calm. Another difference which *Antesignanus* hath omitted, is behoveful for us to know, namely, that the Tragedians did wear upon the stage a certain shoe, coming half way up the leg in manner of buskins, which kind of shoe was called by them *Cothurnus*; and from that custom, it hath been occasioned, that *Cothurnus* is translated to signify a Tragicall and lofty style, as *Sophocles digna Cothurno*, matters befitting *Sophocles* his style, and sometimes a Tragedy it self. The Comedians did use an high shoe coming up above

e Alex. Gen-
dier. l. 5. c. 16.

f Antesign. in
suis of serv.
de metr. s. co-
micis Teient.
præfixis.

Nigris medi-
um impediit
crus Pellibus.
Horat. Ser. l. 1.
Sat. 6.

above the ankle, much like a kind of shoes which plowmen use to wear, to keep themselves out of the dirt. This kind of shoe is called *Soccus*; by which word sometimes also is signified a Comedy, as,

Hunc Socci cepere pedem grandisq; Cothurni. Hor.

g All these sorts of stage-plays, both *Mimical*, *Satyrical*, *Tragical* and *Comical*, if they were acted according to the Grecian rite and custom, then were they called *Palliate*, from *Pallium*, a certain mantle which the Grecians did use to wear; if according to the *Roman* manner, then were they called from the Roman gown *Togata*. g Antefig. ib.

CAP. 12.

De Trojano ludo, sive Troja.

IT was a custom among the *Romans*, sometimes in the year, to have a general muster of the younger sort, who meeting in the *Cirque* exercised their running, racing, riding at tilt, and other such like feats of activity, whereby they might be trained up for their better service in the War. They chose a Captain, one or other of Noble birth: he was called a *Princeps Juventutis*. They divided themselves into distinct Companies, sometimes marching forward one against another, sometimes retiring backward; sometimes skirmishing; sometimes imbattelling themselves in one form, sometimes in another, as if it were a true field pitch. A large and full description hereof we have in *Virg. Æn. 5*. This game was called *Trojanus ludus*, or simply *b Troja*, without the addition of any other word, because *Ascanius*, *Æneas* his son, first brought it out of *Troy*, according to that of *Virgil* in the fore-quoted place, a Hosp. de orig. scit.

Hunc morem, cursus, atq; hæc certamina primus

Ascanius, longam muris cum cingeret Albam,

Retulit, & præcos docuit celebrare Latinos.

Among other sports used at this time, & there was also a kind of *Morisk-dance*, wherein the younger men danced. b Suet. in Jul. c. 39. c Alex. 1b A. lex. l. 6. c. 19.

ced in harness, after a warlike manner, being thereby trained to exercise all parts of their body, by sundry gestures, as well to avoid avenues and defend themselves, as to annoy and offend the Enemy. This kind of Dance is generally called *Pyrrhica saltatio*, because it was invented by *f Pyrrhus*. Yea, some say, that *Suetonius* taketh *Trojanus ludus*, and this *Pyrrhica saltatio*, for one and the same thing. Nay, *Alexander* confoundeth both these, with those other games termed *Juveniles ludi*. But doubtless herein he was mistaken; for those *Juvenilia* were instituted by *b Nero* at the shaving of his beard, and had not their name, because young men were the chief actors, but because old men would now by the practice of youthful sports, turn young again. The actions at this time were so far from favouring of Military Discipline, that on the contrary, they were for the most part effeminate and wanton.

CAP. 13.

De tesseriis, talis, & latrunculis.

BEfore we treat of the game called *Ludus tesseronius*, it will not be amiss, to clear the word *tessera* from all ambiguity. The word hath four remarkable significations, all alluding to matters of Antiquity. First, it signified a watch-word among the souldiers in the camp, whereby they discerned their enemies, or spies, from their own fellows. *o Alex. ab Alexandro* giveth many examples hereof: *Augustus Caesar* in his camp gave for his watch-word, *Venus genatrix*: *Pompeius magnus* gave for his, *Hercules invictus*, &c. and this was called *Tessera militaris*. Secondly, there was *Tessera frumentaria*, a certain ticket or token given by the Magistrate unto the poor, at the tending whereof, *p* at the beginning of every month, certain doles and measures of corn were given: it is evident that at first there were such monthly distributions of corn, even by that endeavor of *Augustus*,

f Plin. l. 7. c. 56.

g S. xv. in l. 5.

En Ir. Alex.

4th A. e. loco

supra citato.

b Sueton. in

Neron. c. 17.

i Cael. Rhod.

l. 19. c. 22.

k Ro. in Rom.

ant. l. 5. c. 22.

o Alex. ab Alex.
lex. l. 4. c. 2.

p Suet. Aug.
c. 2. 40.

Augustus, who for the avoiding of trouble, would have reduced all to three set distributions in the year, but prevailed not. Sometimes instead of Corn, or blyp over and above the Corn, there were at certain times doles of money given to the poor; which dole whosoever received, tendered his token or bill of exchange, termed *Tessera nummaria*; these two last acceptations, though they may be distinguished, yet because they both tended to the relief of the poor, I have joyned them together. 3. There was *Tessera hospitalis*, a certain token of wood or such like matter, which usually was cut in two by those who had engaged themselves mutually to entertain each other, whensoever entertainment should be craved: yea, this wooden ticket or tally being mutually accepted, it was lawful for their posterity, bringing this token, to challenge hospitality. Thus he in *Plautus* having formerly used *Anidomus* as his host, after *Anidomus* his death, he cometh unto *Anidomus* his adopted son, not doubting of entertainment; for, sith he, *Deum hospitalem, ac tesseram mecum fero*. Hence from this custom, or tendering a token when hospitality should be craved, that Adage hath been derived, *Tesseram hospitii confregis*, i. e. he hath broken the league of hospitality. Lastly, *Tessera* signifieth a Dye: where we must note, that the word, *Alea*, which commonly is translated a Dye, is a general word, applied equally both to the *Tessera* and the *Tali*, to denote the uncertainty of both games. *Tessera* properly signifieth a Dye; *Talus*, an huckle-bone, such wherewith children play at *Cockall*. In determining the several chances in these plays, Authors are not only diverse, but in many things contrary each to other; neither can any certainty be gathered from their writings: whether my conjectures, drawn from comparing their several and contrary writings, may give light for the right understanding of decayed knowledge herein, I shall willingly submit my self to the censure of the judicious. The several chances which I read of, are these,

g Suid. in voce
καθ'.

some arising from the number of the points in the Dye, as *Senio Momus*. More usually amongst the Grecians, these two were termed καθ' & χιθ'. δ μ'ν δ χιθ' ἰσθ' αὐτῶν, δ δ καθ' ἱ. e. *Chiur*, answered our *Ace*; *Comr*, our *Sice*. And this is confirmed by a proverb in use amongst the Grecians: καθ' ἀπὸς χιθ', which the Learned interpret to be, a comparison of unequals, a Pygmy with a Giant: others named from the number, I read not of. Perhaps they played not with a single Dye, but with three, as we use in *Passage*; whence their chances might have their name, not from the number of points in each several Dye, but from them all being Cast. But that the *Tesserae* had points in them, appeareth by the testimony of a *Turnebus*: And hence *Nuñeri* is sometimes used for *Tesserae*:

Sen ludet numerosque manu jactabit eburnos.

Ovid. 2. de Art. Amand.

That they used more *Tali* in their plays, than they did *Tesserae*, b *Turnebus* observeth from that Verse:

b Turn adv.
l. 6. c. 10.

Nim sum talorum numerus par tesserae. Mart. 14. Epig. 15. c *Caelius Rhodiginus* speaketh more distinctly, saying, that in their play they used three *Tesserae*, but four *Tali*. These *Tali* were sometimes called *Vulturii*, as appeareth by the same d *Rhodiginus*, and likewise *Reguli*. The reason of both is rendred by *Turnebus*; he being of opinion that these *Tali* had not points in them as the *Tesserae*, saith, *Pronumeris effigies animalium habebant, ut vulturum, aut regulorum.* That they were termed *Vulturii*, is probable by that of *Plautus*:

c Cael. Rhod.
l. 20. c. 17.

d Cael. Rhod.
l. 6. c. 18.
e Turn adv.
l. 5. c. 6.

Tace parumper, jaci Vulturios quatuor.

Plaut. curcul. Act. 2. Sc. 3.

But that the Cock-all-Bones should be called *Reguli*, I somewhat doubt; for no question but *Regulus* and *Basilius* in this place signified one and the same thing, the one being the *Latine*, the other the *Greek* word; now *Basilius*, as shall presently appear, signified the whole chance. So confused are the opinions of Authors here-
in,

in, that to assign the reason for every chances name, or to reduce every chance determinately, either to the *Tessera* or the *Tali*, I think it impossible. Onely some may be thus reduced, and in general we may conceive probably which chances were fortunate, which unfortunate. The unfortunate chance in the *Tali*, was commonly called *Canis*, or *Canicula*, or *Chius*; The most fortunate chance, *Venus*, or *Basilicus*. f *Lipsius* taketh them both for one, and that not without ground, if we compare *Horace* and *Plinius*; both of them treating of that old custom of throwing these Cock-all bones at their feasts, for the choice of their *Modiperator*, or Master of the feast, which shoud prescribe Laws for drinking to the whole company.

Venus arbitrium ———

Tacet bibendi, Saith *Horace*.

Jactis Basilicum, propius magnum p-eculum, Saith *Plaut. curcul.* And why may not this cast be justly termed *Basilicus*, seeing the *Modiperator* hereby designed, was by the Grecians not only called *στρατηγός*, but also *βασιλεύς* King, Prince, or Chief Commander at the Table? This cast was then thought to be thrown, when all four Cock all bones appeared not one like the other, but all with different faces, g *Venus consurgebat ex talis quatuor jactatis, ubi diversam omnes ostendissent faciem*: with whom accordeth b *Turnebus*; *Venus erat, cum nullus eodem vultu stabat talus*. *Hercules* was also a lucky throw; but whether the same as *Venus*, I have not yet learned.

g Cœl. Rhod. l. 20. c. 27.
b Turn. ad. l. 5. c. 6.

The games with the *Tessera* I make no question were divers; the ignorance of which, they being long since out of use, hath caused much obscurity in this matter: one game there may seem to have been in use, where the just number of eight seemeth to have been the chief Cast: it was called i *Stesichorius jactus*, or *Stesichorius numerus*. i Cœl. Rhod. l. 20. c. 27. The reason is rendred by *Rhodiginus*, because

Stesichorius his Tomb, erected at great charges for great

ter

ter magnificence, *Ex octonis constabat omnibus*, i. e. consisted of many eights, to wit, *eight Angles*, or corners; *eight Columns*; *eight steps*, or grieces. In their common game, the most fortunate throw is thought to have been three *Sices*, we call it in *Passage*, a *Royal pass*, whence it was commonly called *Senio*:

——— *Quid dexter senio ferret*

Scire erat in votis, damnosa canicula quantum

Rodret, angustæ collo non jallier orca. Pers. Sat. 3.

Which one place of *Persius* giveth light to this in three things. First, that the winning cast was termed *Senio*: and if you make *Basilicus* a term common both to Dice and Cock-all-bones, as *Venus* is, we may fitly render it a *Royal Pass*. Secondly, the losing cast, *Canis* or *Canicula*, in English a *Dog-chance*. Thirdly, the manner of their play, both in their Dice and Cock-all-bones, was by casting them not immediately out of their hand, but out of a dish or narrow-mouth'd vessel, that there might be fair play, without striking or cogging the Dye: this vessel *Persius* calleth it *Orca*, and describeth to have a narrow mouth, and a strait neck. *Horace* applieth it to the *Tali*, Sat. 7. l. 2.

Mitteret in Pyrgum talos ———

Calling it *Pyrgus*, using the Greek word *πύργος* a Tower or Steeple, so called from *πύρ* fire, because the form thereof being *acuminata*, resembleth the rising of fire: the word intimateth *Horace* his *Pyrgus* to have been of the like form with *Persius* his *Orca*. But to return to the games; the chief cast, as I said, was thought to be when three *Sices* appeared: which opinion is strengthened by that common Proverb, *Aut tres sex, aut tres tesserae*, i. e. either three *Sices*, or three *Aces*. And the first of these being the best, the other the worst chance in the Dice, the Proverb implieth thus much, I will put all to the hazard, I will win or lose all. This cast was also called *Midas*: for as *Rhodiginus* speaketh, *In tesserario ludo Midas jactus*

jaculus erat fortunatissimus : with whom accordeth *Demph.*
 & *Demph.*, proving it out of *Suidas* : an. R. m. l. s.
Midax is to *Midax* in *Curia* & c.

Midax is *Midax* *consulor optimus*.

This name signifieth the best chance, yet was not appropriated to the *Tessera*, but sometimes also signified the fortunatest chance of the *Tali*. Likewise from that of *Mart. l. 13. 1.*

Senio nec nostrum cum cane quassat ebur.

It is noted by *Erasmus*, that as often as an *Ace* hapned *Erasm. adag.*
 to be thrown together with a *Sice*, so that *Senio* and *Canicula* appeared together at one throw, it was a losing *Chius ad Co.*
cast. *Suetonius* is clear in the proof hereof, if for *Aus* we

substitute *Et*; which unless we do, it will be a matter of great difficulty to make congruity of sense. His words

are, *Talis enim jaculatus, ut quisque Canem aut Senionem miserat in singulos talos, singulis denarios in medium conferebat, quos tollebat universos qui Venerem jecerat.* Turn *Aus*

into *Et*, the sense is obvious. Look who threw an *Ace* and *Sice* together, for every Dye he staked and laid to the stake a Denier;

which he took up and swooped all clean, whose luck it was to throw *Venus*. *Euripides*, as I take it, was not a chance, but a kind of game, much resembling that which is in use with us, called, *one and thirty* : The

number of that game was *forty*, and the game called *Euripides*, because *Euripides* was one of the forty chief Governors in *Athens*, when the thirty Tyrants were deposed.

The reason of my conjecture is taken from *Rhodiginus*, *Cor. Rhod.*
 whose words are these : *Euripides numerum continebat l. 20. c. 17.*
quadragenarium, quoniam videtur unus fuisse Euripides praefectorum quadraginta, post triginta Tyrannos Athenis excedos : from all we may note, that the *Jaculus prorsus*, or

Jaculus plenus, that is, the lucky cast, we may English it, *Take all*, was commonly called *Senio*, *Venus*, *Cons* ; the

Jaculus supinus, or *Jaculus inanis*, was likewise commonly known by no other name than *Canis*, *Canicula*, or *Chius*, we may English it *Blank*.

Some.

o Barthol. Me-
rula in Ovid:
de art. a nind.
l. 2.

Some have delivered their mind touching these plays thus: that the *Tali* or Cock-all-bones had but four faces or sides, and therefore yielded four chances, and no more: the first is called *Canis* or *Canicula*, answering to our *Ace*, and it was the worst of all; the opposite unto it they term *Venus*, or *Cons*, and is accounted the best: *Merula* against sense understandeth the number of seven by it, it may stand for our *Six*. The third bore the name of *Chius*, proportioned to *Trey* with us; and the last *Senio*, which is as much as *Quatre*. For in these *Tali* there is no chance of *Deux*, or *Cinque*. This opinion at first, I confess seemed plausible to me; but how fully it discovereth the game, and how agreeable it is to antiquity, let others judge. The chances of the Dice, or Cock-all-bones, as they were termed *Falsus* & *Missus*, casts: so also were they called *p Manus*, figuratively, as every stroke in the fencing-school was termed *Manus*. The first acception of *Minus* is proved out of *q Suetonius*, where *Augustus Caesar* speaketh thus: *Si quas manus remisicuiq; exegissem, aut retinuissem, quod cuique donavi, vicissem*, &c. If I had exacted those chances which I remitted every one, and kept that which I bestowed, I had gotten, &c. The second acception of *Manus* is confirmed by *r Quintilian*, who calleth the second, third, and fourth strokes in fencing, *secundus, tertius, & quartus manus*. Our English phrase is not much unlike; He hath had a good or bad, lucky or unlucky band. Another game there was of like nature played with Table-men: the word *Latrunculus* translated: a Table-man, did properly signify an hired Souldier, such an one as served for pay: whence *Latro*, whose diminutive *Latrunculus* is, hath his denomination and *τὸ λατρεύειν, a serviendo*. In this sense the word is used by *Plautus*:

fPlaut mil.
glor. Act 1.
scen 1.

*Nam Rex Seleucus me opere oravis maximo,
Ut sibi latrones cogerem, & conscriberem.*
Secondly, because Souldiers are so prone and apt to commit robberies: hence *Latro*, and *Latrunculus*, hath been used

used also to signifie a thief or robber. And thirdly, in a borrowed sense, these words are applyed to signifie table-men or chess-men; because this game hath the express form and representation of a war or battle, fought between two Armies; Insomuch that a *Pyrrhus* King of *Epyre*, being skilful in plotting stratagems, first taught his souldiers that art of projecting, by plays and representations thereof in the table-men. Some are of opinion, that it was first invented in the siege of *Troy*, by *Palamedes*, who that he might keep his souldiers in better order, allowed them this kind of recreation, whence these Chess-men are sometimes called *Palamediaci calculi*: they were made sometimes of wax, sometimes of glass, sometimes of other matter. The game seemeth to have been the very same with that which we call Chess. Other games these were of lesser note for recreation, of which sort were principally these that follow. *Petaurum*, *Discus*, *Pila*, *Trochus*, *Nuccæ*. *ἡ τράχηλος*, from whence this Latine word *Petaurum* cometh, signifying properly a perch or pole, on which poultry roasts; and hence the rope or staff on which light persons were wont to dance, and try maseries, was termed *Petaurum*. It signified also a certain hoop or wheel, through which active persons would run swiftly, their body so warily carried, that in their running they would not touch the hoop or wheel: to this purpose *Alex. Neoph.* speaketh, a *Fatis quoq; Petauriludus admirationis præcipue, cum per circulos quissimam veloci cursu transvolat, corpore ita librato, ut circulum non offendet*. Such tumblers as were practised in this kind of activity, were thence call'd *Petauristæ*. *Discus* was a round stone in manner of a bowl, sometimes made of iron, or brass, whosoever could cast it farthest got the victory: the players thereat were called *δισκοβλάται* from *ἄλσος* and *βάλλω* to dart, or cast out any thing. *Pila*, it signifieth a ball, and of it there were divers sorts. 1. *Harpastum*, which we may English a *Foot-ball*. This ball being put down in the middle, two companies of young men strove who should

Donat. in Teren. Eun. Ag. 4. sc. 7. ad illud, Idem hoc jam Pyrrhus facitavit. Suid. in voce τὰ βλά.

a Alex. ab Alex. l. 3. c. 11.

b Alex. ab Alex. l. c. ibid.

Q

drive

drive it thorow the others goal. 2. *Pila*, which signifieth a distinct kind of ball, so called from the hair with which it was stuffed. 3. *Follis*, a light kind of ball, so called because it was stuffed with a bladder; with this old men and young children played. 4. *Paganica*, this had his name a *pagis*, from villages and countrey towns, where it was chiefly in use, it was stuffed with feathers; of all these, *Mart.* 14. 45.

Hec quæ difficilis iurget paganica pluma

Folle minus laxa est, & minus arcta pila.

e Cæ1. Rhod.
l. 20. c. 18.

d Turneb. adv.
l. 7. c. 4.

5. *Trigonalis*, and this I think both the *Pila* and the *Follis* were called, in opposition to *Paganica*; the reason of the name is taken from the form of the Tennis-Courts, which because they were three-square, in manner of a triangle, e hence was the ball with which they played in such Courts termed *Trigonalis*. The Players themselves were termed *Fallones*; those that did cast the ball into the Court, were called simply *Datores*; and d hence *datatim laudare*, is to play at ball, or else we may imagine the reason of this phrase to be, because such as in their play by negligence did let down the ball, did *suram dare*, hold out their leg, to have the ball slung at it. *Trochus*, it signifieth a Top: as it was commonly called *Trochus* from *τροχος* to run, because of the swiftness thereof: and likewise *Turbo* in Latine for the same reason; so sometimes it was called *buxum*, from the matter whereof it was made, as

— *Buxum torquere flagello.* Pers. Sat. 3.

Nuces, with Nuts they had many Playes, some of which are at this day in use. One holding an uncertain number of Nuts in his hand, his fellow that plaid with him was to divine whether the number were Even or Odd. This *Horace* calleth

Ludere par impar —

The Grecians *ζυγὰ ἢ ἀζυγὰ*. Of this *Ovid de nucæ*,

Est etiam, par sit numerus qui dicat an impar:

Ut divinitas auferat augur opes.

Some

Sometimes they piled their nuts, three beneath, and one on the top, in manner of a Castle: of this *Ovid* speaketh likewise,

Quatuor in nucibus non amplius alea tota est,

Cum sibi suppositis additur una tribus.

Yea, these nut-games were so many, and so peculiar to children, that striplings growing into mans estate, were still reputed children, until they forsook these nut-sports, whence *nucibus relictis* sounds as much as childishness being past: and this is thought to be the reason, why the bride-man, as soon as he was married, used to cast nuts among the people; intimating thereby a farewell to such childish pastimes. Many other childish games they had, among which one resembled our *Cross and pile*; if they termed it *Capitis vel navis*; because the coyn which they flipp'd or tossed into the air, bore stamped on the one side *Janus* his two faces, on the other side a ship.

c. Rosin. ant.

Rom. l. 5. c. 27.

f. Anton. Constantin. in Ovid.

Fast. l. 1.

CAP. 14.

De mensis & convivii Romanorum.

BEfore we proceed unto the description of the Roman tables, we will explain those five terms, *Jentaculum*, *Prandium*, *Merenda*, *Cæna*, & *Commissatio*. Which five words do signifie the five severall feedings each day, which children, old men, labourers, travellers, and such like, did usually observe; for others of healthier and stronger constitution did commonly eat but one meal, at the most but two, in the day. *Jentaculum* signifieth their break-fast, and it had its name, like as our English hath, a *jejunio*, from fasting: In former times it was called a *silatium*, from *Sile*, the name of a certain herb, with the root whereof they were wont to season that wine, which they had at break-fast: for as *b. Plutarch* saith, their break-fast was nothing but a sop dipped in wine. In the same place he likewise saith, that in old time they had no dinner, but that which we call *Prandium*

a. Rosin. ant.

l. 5. c. 27.

b. Plut. in Sym.

l. 8. q. 6.

was the same with them as *Jentaculum*, and thus much the Greek word *deipon* signifying a dinner, doth intimate, it being so called, *quasi aëteos*, from *aëteos*, which signifyeth the morning. The name *Prandium*, which we render a dinner, was so said *quasi prap'ndion*, signifying Noon-tide, or Mid-day. The third time of taking meat, was called *Merenda*, we may English it our afternoons beaver; it was called also *Antecanium*, because it was taken a little before supper. *e Merenda est cibus qui declinante die sumitur, quasi post meridiem edendus, & proxime cæna; unde & antecanium a quibusdam dicitur.* The fourth time was their supper; called *cæna*, *quasi nox*, which signifieth as much as *Common*, & *quia antiquitus seorsim solebant prandere Romani, cænare cum amicis.* Their fifth and last time of feeding, was called in Latine *Comessatio* by some, by most *comessatio*, a comedendo. *e Joannes Tristinus* saith, that it is a beaver taken after supper, or a night drinking. But the chief feast, whereat they gave entertainment, being their supper, we will consider these three things therein. First, *accumbendi vel discumbendi rationem*, that is, the manner of their lying at supper (for they did neither stand, nor sit at table, as we do:) secondly, the form and fashion of their table; and lastly the parts of their supper. The place where they supped, was commonly called *Cenaculum* a *cæna*, as our dining chamber is so called from our dinner. It was also called *Triclinium*, or *Biclinium*, from *tridn* a bed; for sometimes there were 3. beds, sometimes but 2. about the table upon which the guests did sit, or rather lie along. In this dining Parlour was placed a table, sometimes made quite round, and for the common sort of people it was made of ordinary wood, standing upon three feet; but for men of better rank, it was made of better timber, inlaid sometimes with wood of divers colours, sometimes with silver, and it stood upon one whole intire foot, made of Ivory, in the form of a great Lion or Leopard, &c. Unto the meaner sort of these tables *Horace* alludeth;

e Just. Lipf.
cent. i. ep. 65.

d Ilur. sym.
L8. q. 6.

e In orat. pro
M. Cælio.

f Lazijs de
repub. Rom.
l. 3. c. 3.

— *Modo sit mihi mensa tripes.* Hor. Ser. 13.

Unto the other, *Juvenal, Sat. 11. ver. 122.*

— *putere videntur.*

Unguenta atq; Rose, latos nisi sustinet orbis

Grande eburi, & magno sublimis pardus bistu.

Sometimes this table was made in the form of an half Moon, the one part thereof being cut in with an arch or semi-circle, and then it was called *Sigma*, because it did much resemble the letter *Sigma*, *g* which as it appeareth by certain marble monuments, was in old time made like a *Roman C*. Hence is that of *Mart. lib. 14. 87.* g Rom. ant. l.3.c. 28.

Accipe lunata scriptum testudine Sigma.

If any man should demand the reason, why they cut their table in that form, I must confess I have not read any reason in any author bearing shew of probability. My conjecture is this; it is agreed upon by most Authors, that in the round tables the one quarter was reserved void from guests, that the waiters might have a convenient room to attend: thereupon it seemeth not improbable unto me, that this crooked arch was made for the waiters. I acknowledge that this *Sigma* hath been translated diversly by divers writers, as it appeareth by *Lipsius* in the fore-quoted place. By some it hath been taken for the Parlour, or supping chamber, so *Lipsius* in his *Antiquities*; by others for the supper or feast it self, so *Calius*. By *Lipsius* since it hath been thought a certain place, erected in the manner of a semi-circle, or half Moon, against which they did place one continued bed, able to take six or seven guests. But *Brodeus* and *Dismarus*, in my opinion, have more truly taken it for the table it self. About the table that was perfectly round, were placed three beds, covered with tapestry, or some other kind of covering, according to the wealth and ability of the person; and thus

— *Strato discumbitur ostro.*

The beds being ready furnished, the guests lie down in manner as followeth. Each bed contained three persons,

sons, sometimes four, seldom or never more, except at their great and more solemn feasts. If one only lay upon the bed, then he rested the upper part of his body upon his left Elbow, the lower part lying at length upon the bed; but if many lay upon the bed, then the uppermost did lie at the beds head, laying his feet behind the second his back; the second rested his head in the others bosom, having a cushion put between, laying his feet behind the third's back: in like manner the third and fourth did lie. The number of the guests was not great, seldom times exceeding nine: whence *A. Gellius* saith, that the number of the guests should begin with the *Graces*, and end with the *Muses*, that is, they must not be fewer than three, nor more than nine. This also hath been the reason of that adage, *Septem convivium, novem convitium faciunt*. *Helioabalus* seemeth to have been delighted with the number of eight, & whence he invited to supper *oculo calvos, oculo luseos, oculo podagrosos, oculo surdos, oculo rancos, oculo insigniter nigros, oculo insigniter longos, oculo prepingues, & oculo nasutos, delictatus illo Græco proverbio, δὲ τὰ τὸν τὸν*. Those that were not invited, but came of their own accord unto a feast without bidding, by *Plautus* they are called *Musce*, flies; by others they are called *Umbra*, shadows. Hence is that of *Horace*,

— *Locus est & pluribus umbris.*

The party which invited the guests, sometimes expressed his earnestness by pulling and haling one by the cloak: whence *Stuckius* observeth, that when they would shew how earnestly they were invited, they would say *Penulam mihi scidis*, He tore my cloak off my shoulder. Again on the other side, when they would shew how easily the guest was intreated, they would say, *Illius ego vix tetigi penulam, tamen remansit*. Before the guests sat down, their shoes were usually pluck'd off, that they might not foul the bed on which they did lie;

b A. Gel. noct. At. l. 13. c. 11. Tribus aut novem miscentur cyathis pocula commodis, qui musas amat imparet, Terenos ter cyathos attonitus petet Vates, res prohibet supra Rixarum metuens rangere Græta Nudis juncta fororibus.
Hor. carm. l. 3. Cd. 19.

3 Alex. Gen. di. l. 5. c. 22. & Stuckius de convi. l. 4. c. 2.

1 Tiren. in Heautont.

Accurrunt

Accurrunt servi, soleas detrahunt,

Videō alios festinare lectos sternere, cenam parare:

m They did likewise gird their heads with Fillets and Hair-laces, as often as they intended to drink more than ordinary, thereby to prevent the vapours, which otherwise would annoy they head; for which reason, they did likewise use Garlands of Ivy, and Myrtle-tree, and Roses: the coolness of which comforted the brain. These Garlands were also *Symbolum plene libertatis*, a token of their full liberty. The Carver in these Feasts was called from his artificial setting and ordering the Dishes upon the Table, *Struētor*: and from his artificial carving and cutting up of the Dish, *Carētor*. *Tryphonus*, as appeareth by *Juven. Sat. 11.* was famous for his skill in carving: he did set up a School, teaching such as came to him by Rules and Precepts, and also shewing them the manner of carving: which that he might the better do, he furnished a Table with several Dishes of Meat, formed and fashioned in Wood, with a dull Knife, shewing his Scholars after what manner, and with what gesture of their body they should cut up this or that Dish. This Supper because of the wooden Dishes of Meat was called *Cana ulmea*. They divided their Supper usually into three parts, which they termed their first, second, and third course. In the first course commonly was served Mulberries, Lettices, Sauages, and alwayes Eggs: as likewise in the last course (whether the second or third) were served Nuts, Figs, Grapes, but alwayes Apples: p whence we say proverbially, *Ab ovo ad mala*, from the beginning of the Feast to the end: or simply from the beginning of any thing to the end thereof. The middle course was the main Supper, and the chief dish thereof was called *Caput cana*: In *Lipsius* his phrase it was called q *Fundus & fundamentum cana*. Their first mess they called the *proœmium*; the last, the *epilogus*: which because it consisted so much of sweet and delicious meats, hence did they apply that unto the

m Cœl. Rhod.

lib. 27. c. 26.

m Plin. l. 6.

cap. 2.

o Stuck, de

conv. l. 3. c. 3.

p Pancirol. lib.

rer. deperdit.

cap. de ebi

capiendi mo

do.

q Stuc. l. 3. de

conv.

Turn.b.adv.
l. 5. c. 10.

the second course, as *Idem* conuider: *equippus*, *Secunde cogitationes sunt sapientiores*. If the table were well furnished with plenty and variety of dishes, it was called *Cena recta*, or *Cena dubia*: *Recta* in this place signifieth as much as *vera*: thus *id est* among the Grecians sometimes signifieth *verus* & *sincerus*. The phrase intimateth that it was a true supper, opposed to that dole of meat distributed by Princes to the People, which from the pannyer or basket in which it was brought, was called *Sportula*: sometimes they distributed money instead of meat, this also was named *sportula*: so that *sportula* denoted any kind of dole, either of meat or money, which as often as it was given in lieu of a supper, it was opposed to *cena recta*. Yea sometimes by *sportula* we may understand a light and short supper.

Promissa est nobis sportula, recta data. *Martial*. The reason why a great Feast should be termed *Cena dubia*, is, because in such variety of dishes the Guest is many times doubtful of which to begin. Contrary to this is *cena ambulatoria*, a supper where one dish walketh through the Table.

LIB.

LIB. III. SECT. I.

*Of the Roman Assemblies.**De Comitiis.*

Hitherto have we insisted upon the description of the most remarkable parts of the *Roman* City, together with the several divisions of the *Roman* people, as also the *Roman* Religion; where we have seen the general divisions of their Gods and their Sacrifices, with their Ceremonies thereunto belonging, and likewise of the *Roman* Games both greater and less. Now we are to proceed to that part of Government, which is political or Civil: where we will first speak of their Assemblies called *Comitia*; then of their Civil Magistrates; afterwards of their punishments; and lastly, of so many of their Civil Laws, as I have observed needful for the understanding of *Tully*, and that principally in his Orations. For the more easie conceiving of all which, I have prefixed one Chapter of the *Roman* year, treating there of the *Calends*, *Ides*, and *Nones*; the knowledge of which is needful for that which followeth.

R

CAP.

CAP. 1.

De Ann & partibus ejus.

INasmuch as there cannot be a full knowledge of the Roman Assemblies, without some general understanding of the Roman year, and the general distinctions of the Roman days; it cannot be but worth our labour in this short Chapter, briefly to consider what may be spoken therein. This word *Annus*, is so called, *quasi Annulus*, because (as the Greek word *βιαυβις* signifieth) is *incurtus*; id est, *in se convertitur annus*: which was the reason why the *Egyptians* in their mystical Cyphers (called *litera hieroglyphica*) did use the picture of a Serpent, having his tail in his mouth, to signify a year. The time or space of this year hath been divers, according to the diversity of Nations. ^a Some allowed no more days to a year than we do to a month; whence that monethly space which the *Latines* called *Mensis* from *mensura*, signifying the Moon, they called *Annum Lunarem*. Some allowed four moneths, some six moneths, some ten. And thus *Romulus* measured his year, counting the moneths either from the number of our fingers, or from the time that a woman goeth with child, or from the time that a widow commonly mourned for her husbands death; or lastly, from the multiplication of unites, which in simple number doth not exceed ten.

^a Vid. Plin. l. 7. c. 48.
^b Paul. Mar. in Ovid. Fast. lib. 1.

Quod satis est utero matris dum prodeat infans,

Hoc anno statuit temporis esse satis.

Per totidem menses a funere conjugis uxor

Sustinet in vidua tristitia signa domo. Ovid. Fast. l. 1.

Annus erat, decimum cum Luna recesserat orbem,

Hic numerus magno tunc in honore fuit:

Sen quia tot digiti per quos numerare solemus,

Sen quia bis quino famina mense parit,

Sen quod ad usque decem numero crescente venitur,

Principium spatii sumitur inde novis. Ovid. Fast. l. 3.

Thus.

Thus *Romulus* his year contained of months ten, of days 304. But after this *Numa* added two Months:

*At Numa nec Janum, nec avitas præterit umbras,
Mensibus antiquis addidit ille duos.* Ovid. l. 1. Fast.

Numa, or as some say, *Tarquinius Priscus*, perceiving that the months did not always fall out alike every year, but sometimes the same moneth would happen in the Summer, sometimes in the Winter; thereupon, after long study, and many instructions from the *Grecians*, finding the reason of this confuseness, he added unto *Romulus* his year fifty days, so that the whole year afterward was divided into twelve months; because the Moon had finished her course twelve times in that space; beginning their year then at *January*, because then in his judgement was the fittest time to begin the year, when the Sun being farthest from us, did begin to turn his course, and to come unto us again; which is about *January*, the Sun being about the *Tropicke* of *Capricorn*. Afterward, upon a superstitious conceit of the odd number, *Numa* added one day more unto *January*; so that whereas at the first *Numa* his year did agree with the *Grecian* year, both of them containing three hundred fifty four days, now the *Roman* year contained three hundred fifty five days: which computation falling out too short for the true year by the space of ten days and six hours yearly, it occasioned in every eighth year the interposition of Three whole months, which they called their Leap-year.

This confuseness afterward *Julius Caesar* by long study remedied, adding the odd ten days unto *Numa Pompilius* his year. And lest the odd six hours might at last breed disorder in their computation, he appointed that every fourth year a whole day should be inserted, next after the three and twentieth of *February*; which inserting they called *Intercalatio*, from an old Verb *Intercalo*; and that day they called *Intercalareum*. Now the day following, being the four and twentieth of *February*, was always the sixth of the *Kalends* of

c Vid. Georg.
Merulam in
orat. pro. Q.
Ligario.

d G. Merul. in
orat. pro Q.
Ligario.

7 G. Merul. in *March*; e and therefore because of the interposition of
 orat. pro Q. that day, they called the Leap-year *Annum bissextilem*, that
 Ligario. is, the year wherein there fallen out two days, which
 they called *Sext. Calend. Martii*. And the day thus in-
 terposed, was called *dies bissextus*. This computation,
 which *Julius Caesar* found out, we have embraced, and
 do at this day follow, calling our year *Annum Julianum*,
 f and *Annum magnum*, having relation to the monthly
 year called *Annus Lunaris*; and sometimes this great
 year is called, *Annus vertens, a vertendo*, because it is al-
 ways turning and running on. g Moreover we must re-
 member, that the *Romans* did begin their year at *March*;
 whence, that month, which since hath been called *Julius*
 in the honor of *Julius Caesar*, was by them called *Quin-*
tilis, because it was the fifth moneth; and that month
 which since hath been called *Augustus*, in the remem-
 brance of *Augustus Caesar*, was by them called *Sextilis*, be-
 cause it was their sixth month. Thus then the great year
 being divided into twelve months, every month was di-
 vided into three parts, *id est, Calendas, Nonas, and Idus*.
 The *Kalends* were so proper unto the *Romans*, h that *Aug-*
ustus Caesar, when he purposed never to do what he was
 requested, was wont by way of Proverb to say, that he
 would do it *Ad Calendas Græcas*, that is to say in our Eng-
 lish Proverb, *At later Lammas*; never. For the better un-
 derstanding of which, I shall insert three common Verses:

i Rosin. rnt.
 Rom. l. 4.
 ii Hubert. l. 3.
 ep. fam. 18.
 b Suet. Oct.
 Aug. c. 17.

Principium mensis nostri dixere Calendas :
Sex Majus Nonas, October, Julius, & Mars,
Quatuor at reliqui tenet Idus quilibet octo.

That is the first day of every month is called the *Kalends*
 of that moneth. The 2, 3, 4, 5, 6, and 7. of these four
 months, *May, October, July, and March*, were called the
 Nones of that month: but in all the other months the
 Nones contained but the 2, 3, 4, and 5 days; so that the
 fifth day (for example sake of *January*, was called *Nona*
Januaria, or *Janarii*, the fourth *Pridie Nonarum*, or *Non-*
as Jan.) For they used always to say, *Pridie Cal. Pridie*
Nonar.

Nonar. and *Pridie Iduum*, instead of *secundo Cal. Non. Id.* The third day of *January* they called *tertium Nonarum*, vel *Nonas Januar.* the second day of *January* they called *quartum Nonarum*, vel *Nonas Januar.* After the *Nonas* followed the *Ides*, which contained eight dayes in every moneth, so that the 15 day of the four aforesaid moneths was called *Idus Maii*, *Idus Octob.* *Idus Julii*, and *Idus Martii*. In all the other moneths the 13 day was the *Ides*; as to proceed in *January*, the 13 day was called *Idus Januar.* the 12 *Pridie Iduum*, vel *Idus Januar.* the 11 *tertio Iduum*, or *Idus Jan.* the 10 *quarto Iduum*, vel *Idus Jan.* the ninth, 5 *Id. Jan.* the eighth, 6 *Id. Jan.* the seventh, 7 *Id. Jan.* the sixth, 8 *Id. Jan.* After the *Ides* then followed the *Calends* of the next moneth. As the 14 of *January* was *decimo nono Calendarum*, or *Calendas Februar.* the 15 *decimo octavo Calend. Feb.* the 16 *decimo septimo Cal. Feb. &c.* Where we must note, that as often as we use *Pridie*, *tertio*, *quarto*, or any of those numerals with an Accusative case, as *Pridie Calendas*, &c. the *Grammarians* say, that this Preposition *Ante* is eclipsed. Again, every moneth had in its compass three great Markets, which because they were observed every ninth day, were called *Nundine*; and the later of them being the greatest, is called by *Athenians* τριτη ἐκκλησία, which we may render *Trinundinum*, or *Trium nundinum*. It followeth now that I should treat of the days, which are the lesser parts of the year: where before we proceed, we will consider the parts which the *Romans* divided their day into.

Dies

Dies Civilis continet	Lucem, ejus partes sunt	{	<i>Diluculum.</i>	The break of day.	
			<i>Mane.</i>	The full morning.	
			<i>Ad meridiem.</i>	The fore-noon.	
			<i>Meridies, quasi Medius dies,</i>	Mid day; or	
			<i>quasi Merus dies,</i>	Perfect-day, noon.	
	No ejus partes sunt	{	<i>De Meridie.</i>	After-noon.	
			<i>Solis occasus.</i>	Sun setting.	
			<i>Crepusculum.</i>	The Dusk of the evening.	
			<i>Prima fax.</i>	Candle tinding.	
			<i>Vesper.</i>	The night.	
Et		{	<i>Concubium.</i>	Bed-time.	
			<i>Nox intempesta.</i>	The first sleep.	
			<i>Ad mediam noctem.</i>	Towards midnight.	
			<i>Media nox.</i>	Midnight.	
			<i>De media nocte.</i>	A little after midnight.	
		{	<i>Gallicinium.</i>	Cock-crowing.	
			<i>Conticinium.</i>	All the time from Cock-crowing to the break of day.	

The day and night again were each of them divided into *primam, secundam, tertiam, & quartam vigiliam*, every watch contain three hours. The first of the night began at six of the clock in the evening, and the fourth ended at six of the clock in the morning. g These watches were distinguished by several notes and sounds of Cornets or Trumpets, that by the distinction and diversity thereof, it might easily be known what watch was sounded. Moreover, we must understand that the Romans, upon a superstitious conceit and observation of misfortunes, and evil events falling out on some days, and more happy success upon other, have called the former sort of days *Atros dies*, or *dies postriduanos* & *Egyptiacos*: *antepaas* *Græci nuncupant*, perinde ac si nefandos *dicas*. The reason why they were called, *Postriduani*, was because they thought *Dies postridia Calendas, Nonas, & Idus*, i. e. The next day after the Calends, Nones, or Ides of every moneth, to be unfortunate: and the later sort they called *Albos dies*, b borrowing the name from the *Seybians*,

g Alex. Gen.
l. i. c. 12.

b Vid. Eras.
adag. unione
signare.

thians, who used to chalk out the fortunate days in their Kalendars with white Characters: whence Horace saith,
Cressa non careat pulchra dies nota.

Other some, as their unfortunate and unlucky days, were noted with a coal or black Character, according to that,
 — *Nigro carbone notatas.*

Again, their Kalendar distinguished some days for Holy-days, which they called *Dies festos*, festival-days, or *dies Feriatis*, & *Ferias*, Holy-days, i because they did upon such days *Ferre victimas*, i. e. offer up sacrifices. Others were distinguished for working-days, which they called *Profectos, quasi procul a festis*. The third distinction was of half holy-days, which *intercivendo*, they called *Dies intercisos*, as it were days cut asunder: the one part of them being allotted for worldly business, the other for holy and religious exercises. & These *ferie* were either *privata* and so they belonged sometimes to whole Families, as *Familie Claudie, Emiliæ, Julæ*, &c. sometimes to private persons, as every one his birth-day, particular expiations, &c. or else they were *publicæ*, such as the whole Common-wealth did observe; and they were of two sorts, the one called *Anniversarie*, which were always to be kept on a certain day, and thereupon they were called *ferie stativæ*; the other *conceptivæ*, which were arbitrary, and solemnized upon such days as the Magistrates and Priests thought most expedient, whereof the *Latine ferie* were chief: which *Latine ferie* were kept on Mount Alban to Jupiter Latiar, for the preservation of all the Latine people in league and confederacy with the Romans, and were solemnized in memory of the truce between those two nations. Those *Ferie*, which were called *Imperativæ*, & in *Indictivæ*, because the *Consul, Prætor*, or chief *Pontifex*, according to their pleasure, *imperabant*, & *indicabant* *his*, i. e. commanded them, may in my opinion be contained under that number of *Ferie conceptivæ*; in respect of the uncertainty of them. Another distinction of days is found in the Roman Kalendar, to have.

i Ascensus in
 ep. 3. illust.
 tit. 2.

i Ros. ant.
 l. 4. c. 3.

i Alex. Gen.
 di. l. 5. c. 7.

m Alex. Gen.
 di. l. 6. c. 7.
 Sciv. En. 11.

o Ca'm' num
Lz. Ode 13.

p Joach. Ca-
merar. pro
Flacco.

q Bersman in
suis annot. in
Rom. Ca. en.
ad finem Ov.
Fast.

have been in *Fastos*, whole Court or Leet-days; *Ex parte Fastos*, half-Court-days; *Nefastos*, Non Leet-days, though this word *Nefastos* be often expounded unlucky, as in that of o *Ilorace* touching the tree, *Ille & nefasto se posuit die*, that is, he planted thee in an unhappy time. These days were called *a fando*, from speaking; because upon those days which were *fasti*, the *Prætor*, or L. Chief Justice might lawfully keep Court and administer Justice, which was not done without the speaking of these three words, *Do, Dico, & Addico*; p *Dabat actionem*; *Dicebat jus*; *Addicebat tam res quam homines*. Where by the way we must note, that sometimes these Court-days were also called *dies Comitiales*, because that q upon every such day which was noted in the Kalendar for a Comitial day, if the publick Assemblies were not held, it was lawful to keep Court: whence not only *Comitalis dies* doth signify a Law-day, but *Comitalis homo* also doth signify a wrangler in the Law, or a litigious person.

CAP. 2.

De Comitibus idque Calatis præcipue; de Rogationibus, & antiqua scribendi ratione.

EVery assembly of all the Roman people being called together by a lawful Magistrate to determine any matter by way of giving voices, is a *coeundo* termed *Comitia* simply, without the adjection of any other word, or *Comitia Calata*, that is assemblies called together, from *καλίσω* or the obsolete Latine Verb *Calo*, which signifieth to call; though afterward those assemblies only which were held either for the inaugurating of some Pontif, some *Augur*, some *Flamen*, or him that was called *Rex sacrorum*, or for the making of their wills and testaments, were called *Calata Comitia*. Whence the Will that was made in these assemblies was called *Testamentum Calatis Comitibus*. This kind of assembly is sometimes called *Comitia Pontificia*, and *Comitia Sacerdotum*, in that sense as others

a Joan. Tristi-
nus in orat.
pro Cælio;

others are called *Consularia*, or *Ædilitia Comitia*, namely, because the Pontifics in these, as the *Consuls* and *Ædiles Plebis* in the other, were chosen. There follow three other kinds of assemblies: for either the people did assemble themselves by Parishes, called *Curie*; or by hundreds, called *Centuria*; or by Wards called *Tribus*. The first sort of Assemblies they called *Comitia Curiata*, the second *Comitia Centuriata*, the last *Comitia Tributa*: *b* where by the way we must note, that that thing which was determined by the major part in any Parish, hundred, or ward, was said to be determined by that whole Parish, hundred or ward; and that which was determined by the major part of Parishes, hundreds or wards, was said to be approved *comitiis Curiatis, Centuriatis, vel Tributis*. Secondly we must note, that neither children, until they were seventeen years old, nor old men after the sixtieth year of their age, were allowed to suffrage in these Assemblies; whence arose that adage, *Sexagenarii de ponte deijciendi*, *c* and old men were hence called *Depontani*, for the explanation of which see before. Here before we speak of those three several kinds of Assemblies, we will consider the manner of their proceedings, in propounding cases unto the Assemblies. *d* The custom was at first, that the Romans should bestow their suffrages *Viva voce*; but afterward that every one might with freer liberty give his voice, they commanded certain Wooden Tables, wherein the names of those that stood for Offices were written, to be carried about; every suffrager receiving so many Tables as there were suitors; then did the people give back that Table with whom they would suffrage. But if a Law were to be enacted, then every suffrager received two Tables, in the one of which were written these two greater letters *V. R.* in the other was written a great Roman *A.* those who delivered these Tables unto the people, did stand at the lower end of those bridges; (which were erected up for the suffragers to ascend unto the *ovilia*) whence they were called *a diribendo*, *i. e.* from distributing, *Diribitores*. At the other end of the

S

bridges

b Sigon de ju-
re Rom. l. 1.
c 17.

c Pars putat ut
ferrent juve-
nes suffragia
soli: Pontibus
infirmos præ-
cipitasse senes;
Ov. Fast.
d Philip. Be-
roaldus in
orat. Phil. 11.

Bridges were placed certain Chests or little Coffers, into which the suffragers which did approve the Law did cast in the first Table; those that disliked it, did cast in the second; for by those two letters, V.R. which were written in the first, is meant *Uti Rogas*, i.e. Be it as thou hast asked, this word *fiat* being understood; by A. in the second Table was meant *Aniquo*, i. e. I forbid it, the word signifying as much as *antiquam volo*, I like the old Law, I love no innovations. The Tables being thus cast into the Chests, certain men appointed for that purpose in manner of Scrutators (they called them *Custodes*, and sometimes *e Nongenti*) did take the Tables out of the Chests, and so number the voices, by making so many points or pricks in a void Table, as they found Tables alike: which kind of accounting occasioned these and the like phrases; *Suffragiorum puncta non tulit septem*, and *omne tulit punctum*; where *punctum* is used for *suffragium*: The voices being thus numbered, it was pronounced by the common Crier what was decreed. Because the use of those Tables is now grown quite out of use, I shall make bold to insert that which with much labour I have collected out of several Authors touching these Tables. It is certain that a long time the use of Paper was not known, whence men were wont to write sometimes upon the inward rindes of trees called in Latine *Libri* (so that to this day we call our Books *Libri*, because in old time they were made of those rindes of trees): sometimes they did write in great leaves made of that rush *Papyrus*, growing in Egypt, from which we have derived our English word *Paper*, and the Latine word *Papyrus*, now signifying writing-paper. Shortly after the invention of this Egyptian Paper, *Ptolemy* the King of Egypt restrained the common making thereof, because of the great emulation between him and *Eumenes* King of *Pergamus* concerning their Libraries: not long after therefore *Eumenes* having found out the making of Parchment, he made use thereof in writing, and called it from the place *Pergamena*. At this

e Plin. l. 33.

c. 2.

a Plin. l. 13.

c. 13.

time

time did the Romans use to write in Tables of wood, covered with wax, called in Latine *cerata tabulae*. They wrote their Wills and Testaments in Tables, *b Hinc secundum & contra tabulas bonorum possessio*; The possession of goods either according to, or against the Testator his Will. Because of the wax wherewith these Tables were covered, *cera* is often used in the same sense; *Heredes primæ cere*, i.e. *primæ tabulae*, & *in primo gradu instituti*, by which words I think are understood such heirs as *e Alexander* called *Heredes ex toto asse*, that is, heirs to the main inheritance, appoyling them to those which did receive only legacies, whom he called there *Heredes in ima cera*, *secundos heredes*, & *ligatarios*. *d Sylvius* not upon improbable grounds doth think that *Tully* doth understand by *Heredes secundi*, such heirs as were nominated to succeed the chief heir or heirs if they dyed. They wrote their accounts in Tables, hence *Tabulae accepti & expensi*, signifying reckoning Books. These count-books were of two sorts, some monthly, without order or method, called *Adversaria*: *Quod adversa parte etiam scriptis impleverunt*. Others perpetual, being the transcript of the former, called *Tabulae accepti & expensi*. They wrote their statutes also in Tables, whence *Tabulae publicæ* are Englished statute-books, or other Books of Record. Those writings or instruments, which the Senate or Emperour caused to be hanged up in the Market-place, to release and discharge any bankrupt from paying his debts, they termed *tabulas novæ*, we may English them *f Letters of protection*. They wrote their inventories of goods set to sale, in Tables, calling them *tabulas auctionarias*: yea they indited their Epistles and common Letters in Tables: insomuch that *tabulae* are expounded missive Letters; and *tabellarium*, which properly signifieth a carrier of Tables, is now used to signifie a Letter-carrier: yet they sometimes wrote also in plates of lead, *g Suidar. in voce* *ἐν πλαστικῇ μορῇ δὲ οὐ χρυσοῦντες*. And thus we may understand what *b Suetonius* meaneth by *charta plumbea*, concerning

b P. Pilliar in ora. pro A. Cæcina.

c Al. x. G. n. dier. l. i. c. i.

d Fr. Sy. v. pro Cluent.

e Cael. Rhod. l. 12. c. 21.

f Fr. Sylv. in orat. Catalin.

g Suidar. in voce

h Suet. Ner.

i Plin. l. 13.
c. 11.

k Fr. Sylv. in
orat. Caril. 3.

l Just. Lip. Ep.
infr. c. 4.

m Cic. 4. in
Vetrem.
n P. Pelliar
in orat. pro A.
Cœcilia.

o Vid. Erasim.
Adag.

p Herman.
Hugo de pri-
ma scrib. orig.
cap. 9.
q Cic. orat.
cont. Casil.

cerning all these, i Pliny writeth excellently. Before the use and making of Paper was invented, men wrote at first in Palm-tree leaves, afterwards in the rindes of certain trees; afterwards publick monuments were recorded in Volumes or rolls of lead, at least private matters, on fine linnen or wax. k The Manner how they sealed their Letters was thus: they did bind another Table unto that wherein the inditement was, with some strong thread, sealing the knot of that thread with wax; whence Cicero saith, *Linum inscidimus*, that is, we opened the letters; hence also is that of Plautus, *Cedo tu ceram ac linum age, oblige, obfigna cito*. l The impression was commonly their own image, or the image of some of their ancestors. The matter on which the impression was made, was not alwaies wax, but sometimes a kind of tempered chalk, which occasioned that phrase of Tullies, *m Signum ille animadvertit in cretula*. n Lastly, they wrote their Books in Tables, whence from them we do at this day call our Books *codices a codicibus*, *caudex* signifying properly the trunk or stock of a Tree, whereof these Tables or Books were made. We must note withall, that they wrote not with Ink or Quill, but with an instrument of steel or iron, having o a sharp point at the one end, and being broad, yet keen and well edged at the other; with the sharp point they did write what they pleased, with the broad end they did scrape out what they had written: whence *Stylum invertere*, is to say and unsay a thing, to turn his punch the wrong end downward, as it were to scrape out that which one had formerly written. The Romans did afterward use instead thereof, an instrument made of bone, prohibiting the use of iron ones as p Isidore noteth by that Law, *Ceram ferrore ne cadito*. And as we use this word *Manus*, to signifie the writing it self, according to that of q Tully, *cognovit manum, & signum suum*: so in the like sense we use this word *Stylus*, to signifie the peculiar tenour or strain of phrase which any man observeth in the composing of an Oration, Epistle or such like, in.

in which sense Tully useth it, as the anticheton to *gladius* in that speech of his, *Cedat forum castris, otium militiae, stylus gladio*, though in another place he useth it to signifie, if not a sword; yet a pocket dagger, as, *Et si meus ille stylus fuisset*; in which place *Stylus* doth signifie as much as *pugio*. And here seeing we are fallen into the manner and custom of ancient writing, it will not be amiss to note, that usually at the end of their Books, they Printed a little mark, which they termed *Coronis*. Those that interpret *Aristophanes*, describe that mark thus, saying, that it is *Linea brevis ab inferiore parte flexa*. All agree in this, that it was some common and known dash usually subjoynd to the end of Books. * Others are of opinion, that the ancient Romans did in the like manner adorn the frontispiece, or beginning of their Books with the picture of an half-Moon; which observation giveth light not only to that adage, *ἄρ' ἔχῃς μὲν χεῖρ' ἡ κορινθία*, from the beginning to the ending; but also that of *Martial*. l. 10.

f Cic. orat.
pro Muræ.
Mic. Toxicia in
orat. Phil. 2.

f Cæ. l. Rhod.
l. 15. c. 20.
* Turn. adv.
l. 22. c. 10.

*Si nimius videor, seraq; coronide longus
Esse liber; legito pauca, libellus ero.*

And that of Ovid.

Candida nec nigra cornua fronte gerat.

For in *Turnebus* his judgement those half-Moons prefixed were called *Cornua*. Howsoever this may be true touching the dash, or character at the end of the Book, and that it was termed *Coronis*; yet I doubt whether any such half-Moon was usually prefixed in the beginning of Books, or whether such an half-Moon were denoted by the Latine ward *Cornu*. More probable is his opinion, * who treating of this very matter, saith that in old time a whole Book was written in one continued Page, neither did they then cut their Books into many leaves, and bind them up in that manner as we do; but that one intire Page in which alone the Book was written, was wont to be rolled up upon a staff, fastned at the end thereof, in manner as many large Maps are

* Pyr. h. rog.
l. 31.

BOW

now adiaies with us : hence it is *à voluendo*, that we call our Books *Volumina*, Volumes. This staff on which the Book is rolled was called *Umbilicus*; the same word signifieth a navel, which because it is the middle part, and as it were the centre of a mans body, hence approved Authors use the word to signifie the middle of any thing; and haply that name was first given this staff, because when the Book was rolled up, the staff was the middle thereof : howsoever, because it was fastned alwaies at the end of the Page, hence *Umbilicus*, especially when it is applied to a Book, signifieth the end thereof, as *Horace*, *ad umbilicum ducere*, to bring to an end. The two pummels or ends of this staff, which did jet out and appear on each side of the Volume, they called *Cornus*; and they were wont to be tipt with Silver, or Gold, or otherwise adorned. The Title which was the beginning of every Book, was termed *frons*. This seemeth more probable than that of *Turnebus*, and giveth greater light to that of *Ovid*,

Candida nec nigra cornus fronte geras.

Now that we may proceed to the matter whence we have digressed, it remaineth that we should declare the manner how they enacted their Laws. All the *Romans*, though free Citizens, had not power and authority of preferring the Law, but only eight of their Magistrates, which they called *Magistratus Majores*, namely the *Praetor*, the *Consuls*, the *Dictator*, the *Interrex*, the *Decem-viri*, the *military Tribunes*, the *Kings*, and the *Trium-viri*: unto these eight were added one of those whom they entituled *Magistratus minores*, namely the *Tribunus plebis*. If any of these Magistrates thought it fit to prefer a Law, then did he first write it down at home, and consult with some Lawyer, whether or no it might be for the good of the Common-wealth, whether it should not weaken any former Law, or whether it was not formerly included in some other Law, &c. These and many other cautions were to be considered before it was preferred;

ferred; yea some would have the approbation of the whole Senate after the advice of their Lawyer, though divers times that hath been omitted: and the Lawyer alone allowing it, the Law was hanged out publicly in the Market-place for the space of three Market daies, which kind of publishing the Law, was termed *Legis promulgatio, quasi promulgatio*: during which time of promulgation, reasons were alledged *pro* and *con* by the spectators, and all the people had so much time as to consult of the conveniency thereof, and every one upon just reason had free liberty to admonish him that preferred the Law, either to amend it, or to surcease the proposal: After the third Market-day (for unless it were upon an extraordinary occasion, no assembly might be called upon a Market-day, because of the country folks busin^{ss}s, they also having freedom of suffraging) the Magistrate did convocate the people to that place where the Law was to be proposed; there the Town-Clerk, or Notary, reading the Law, the common Cryer proclaimed it, then did he which promulged it, make an Oration unto the people, perswading them that it might pass. Sometimes others of his friends would second him with Orations in his behalf; as likewise others that disliked it, would by Orations dissuade the people, shewing the inconveniency thereof. After the Orations had been ended, an Urn or Pitcher was brought unto certain Priests there present, into which were cast the names of the Tribes, if the *Comitia* were *Tributa*; or of the Centuries, if they were *Centuriata*; of the Parishes, if *Curia*: then *scribis aquatis*, that is, the lots being shaken together, they drew their lots: and that Tribe or Century whose name was first drawn, was called *Tribus vel Centuria prerogativa, a prerogando*, because they were first asked their voices. Turneb. interpreting that of Tully, *Majores voluerunt prerogativum omen esse justorum comitiorum*, interprets it, That the Romans did so depend upon the prerogative Century, that they would alwaies declare him *Consul* that was chosen by them,

q Reñ. an.
l. 6. c. 7.

y Cic. pro
Muræ.

f Haber. in
l. 1. Cic. Ep.
form. 2.

† Fuchſi inſt.
m. dicin. l. 3.
ſect. 1.

a Sadius in
Flor. l. 3. c. 7.
x Cic. orat.
Philip. 2.

them, *ad. l. 4. c. 23.* That *Curia* upon which the first lot fell, was call'd *q Principium*, because that *Curia* did first suffrage: those Tribes upon whom the other lots fell, namely the 2, 3, 4. &c. were termed *Tribus jure vocatae*. From this distinction it is, that such a man as hath the voices of the prerogative Tribe or Century is said to have *r Omni prerogativum*: which good fortune whosoever could attain unto, was in great hopes of obtaining the other voices of the *jure vocatae*; for they never, or very seldom, would swerve from the determination of the prerogative Tribe or Century. Whilst the people were busie in their lottery, in the mean time if any *f Tribune* of the Commons would *intercedere*, that is, forbid the proceeding, he might be heard, and the whole assembly thereupon should be dismissed; likewise they were dismissed, if either he which first promulged the Law did alter his opinion, or if the Consul commanded supplications to be offer'd up in the behalf of their Emperour, or any of those holy-daies, called, *Feria Latinae vel Imperatoriae* to be observed upon that day, or if any of the people assembl'd were taken with the Falling-sickness (by reason whereof that disease is called by the *Physicians* at this day *Morbus Comitialis*.) Lastly, the Assemblies were dissolved by reason of the Sooth-sayings, which kind of dissolution was caused, either by the civil Magistrates observing of signs and tokens in the Heaven, and that was called *Spectio*, and sometimes *De Cælo observatio*; the very act of this observation, though no unlucky token did appear, dissolved the Assembly: or else it was caused by the *Augures* and civil Magistrate promiscuously, whensoever any evil token was seen or heard, either by the Magistrate, or *Augures* (amongst which Thunder was alwaies counted the unluckiest) at which time the Assemblies were in like manner to be dissolved. This manner of dissolution was termed *Obnuntiatio* or *Nuntiatio*, *u Obnuntiabat, qui contra auspicia aliqua fieri nuntiabat.* Both these kinds are easie to be collected out of that speech in *Tully*, *x Nos Augures Nunciationem solam*

solum habemus, Consules & reliqui magistratus etiam spectantem. Here we may fitly in way of conclusion unto this tract, add a just difference to be observed between these phrases, *Promulgare, Rogare, Ferre, & Figere legem.* *Promulgare legem*, was to hang up a Law not yet asked, to the publick view of the people, to be examined by them touching the conveniency thereof. *Rogare legem*, was to use a certain Oration unto the people, to perswade the conveniency of the Law; which Oration because it began with this form of words, *Vultis jubeasive Quirites?* that is, O ye Romans, is it your Will and pleasure that this Law shall pass or no? Hence was it termed *Legis rogatio*. *Ferre legem*, was when the Law had been approved of by the people, then to write it down upon Record, and so to lay it up in the treasure-house: y *Cum approbata fuisset lex, in æt incidebatur, & in ærario condebatur, & tunc deum lata dicebatur.* Lastly, *Figere legem*, was to publish the Law after it had been approved and recorded x by hanging it up in Tables of Brasse in their Market-places; or at their Church-doors. Hence it is that we use a *Tabulam figere* in the same sense, namely to enact or establish a Law, and *Refigere legem*, to disprove or cancel a Law. b And that which was determined *Comitiis curiatis*, was termed *Lex curiata*; that which was *Comitiis centuriatis*, *Lex Centuriata*; that which was *Comitiis tributis*, was not called a Law, but *Plebiscitum*.

y F. Maturantius in Phil. 1.

x Cor. Tacit. annal. l. 11.

a F. Matur. in Phil. 12.

b Sig. de jure pro l. 3. c. 1.

C A P. 3.

De Comitiis Curiatis.

Comitia Curiata were those, wherein the Roman people being divided into 30. Parishes, did give their suffrages: They were so called from *Curia*, signifying a Parish. And until *Servius Hostilius* his time, who did first institute the *Comitia centuriata*, all things which were determin'd by the suffrages of the people, were determin'd by these *Curiata comitia*: But after the other two sorts

T

of

of Assemblies had been established, these *Curiae* were used only either for the enacting of some particular Laws, or for the creating of some certain Priests called *Flamines*. For the better understanding hereof, we must remember, that though at first these thirty Parishes were parts of the three Tribes (each Tribe being divided into ten Parishes) yet in process of time the increase of the *Roman* people was such, that a great part of the *Roman* fields were filled with buildings and places of habitation, insomuch that the Tribes of the *Romans* were increased to thirty-five: but the Parishes (because none that dwelt out of the City were tied to the rites and ceremonies of the *Roman* Religion) did not increase, so that the Parishes did not alwaies remain parts of the Tribes. Hence it followeth, that all the *Romans* had not power to suffrage in these Assemblies, but those alone who dwelt within the City, for no other could be of any Parish. The place where these Assemblies were held, was the great Hall of Justice, called from these Assemblies *Comitium*. Before these Assemblies were held, it was required that some lawful Magistrate for some competent time before-hand should solemnly proclaim them, and the thirty Serjeants (each Parish having for that purpose his Serjeant) should call the people together: as likewise three *Augures*, or at least, one should be present to assure them, by their observations, either of the favour or displeasure of the Gods. Upon these premisses the matter was proposed unto the people, who if they liked it, then they proceeded unto their election; if otherwise they disliked it, then did the *Tribunus plebis intercedere*, that is, forbid their proceedings: whereupon their Assemblies were presently dissolved.

CAP. 4.

De Comitiis Centuriatis.

AS those former Assemblies were called *Curia* a *curiis*, so were these called *Centuriata* a *centuriis*. *Scrim Tullius* caused a general valuation of every Citizens estate throughout *Rome*, to be taken upon record, together with their Age, and according to their Estates and Age, he divided the *Romans* into six great Armies or Bands, which he called *Classes*; though in truth there were but five of special note; the sixth contained none but the poorer sort, and those of no worth or esteem. The valuation of those in the first *Classis*, was not under two hundred pounds; and they alone by way of excellency were termed *Classici*; and hence figuratively are our best and worthiest Authors called *Classici scriptores*, Classical Authours. & All the others, though they were inrolled in the second, third, or any other *Classis*; yet were they said to be *Infra classem*. The valuation of the second Band was not under seven-score pounds. The valuation of the third was not so little as an hundred pounds. Of the fourth not less than forty pounds. Of the fifth not less than twenty-five pounds. The sixth contain'd the poorer sort, whom *Horace* called *Tenuis census homines*, men of small substance, and also they were called *Proletarii*, a munere officioq; proles edende, as if the only good that they did to the Common-weal, were in begetting of children; and sometimes they were called *Capite censi*, that is, such as payed very little or nothing at all towards Subsidies, but only they were registred among the Citizens, as it appeareth by *Sigonius*. These six great Bands or Armies were subdivided into hundreds, called in Latine *Centurie*. The first *Classis* contained four-score Centuries of footmen, and eighteen of horsemen; The second contained twenty Centuries of footmen and two of workmen, which followed after to make

d A. Gell. l. 7.
c. 13.

e Sig. de jur.
Rom. l. c. 1.

military Engines and Weapons; The third also, as likewise the fourth, contained twenty Centuries of footmen, but to the fourth were added two other Centuries of Trumpeters, Drummers, and such like, who upon just occasion did *Clasficum canere*, sound the Alarm, and upon just occasion did again *receptui canere*, sound the retreat. The fifth *Classis* contained thirty Centuries of footmen: The sixth or last *Classis* contained one Century: so that in all the 6 *Classes* were contained 193 Centuries. Where we must note, that all the Centuries of footmen did consist, the one half in every *Classis* of the younger sort, who were to make War abroad upon the enemies; the other half of old men, who remained at home for the safety of the City. All that hath been hitherto spoken of these *Centuriata Comitia*, may be collected out of *Sigonius* in the place above quoted. The chief Commander of every Century was called *Centurio*; the rod or tip-staff wherewith he did strike his Souldiers to keep them in array, was called by *Pliny*, *Centurionum visis*. So then we may perceive, that those *Centuriata comitia* were those wherein the people did give their voices by Centuries or hundreds. Now the Centuries did not consist of those alone which had their places of habitation at *Rome*, but of certain *Municipal States* also, and such Colonies or other States that could *d Plentum civitatis jus cum jure suffragii adipisci*. e Now the custom in old time was, that all these Centuries should march in their Armour after their Magistrate which Assembled them into the *Campus Martius*, there to give their voices. But this custom continued not long: for thereby they did disarm the City, and give their enemies (if any should assail them in time of their Assemblies) the greater advantage; for their greater security therefore they appointed a Flag to be hanged out upon the mount *Janiculus*, some few armed men standing there in watch and ward for the safeguard of the City; and when the Assembly was to be dissolved, then did the watch depart, and the Flag was taken down: neither could

d Rosin. ant.

l. 6. c. 10.

e Rosin. ant.

Rom. l. 6. c. 16.

could any thing after that be determin'd; but if they continued their Assemblies, then did they proceed to the giving of their voices, in old time thus: Those centuries of the first Class being the wealthier, had the Prerogative of suffraging first, and because this first Class contained more Centuries than all the rest, therefore if they could agree among themselves, the other Centuries were never asked their voices. This kind of suffraging being somewhat partial, inasmuch as the richer and wealthier being placed in the first Class, did oversway the elections against the poorer sort of people, thence did the after Ages appoint that that Century should have the Prerogative of suffraging first, upon whom the lot fell. The other Centuries were called *s. centuriæ Jure vocatæ*, and did give their voices, not by lots (as the *Tribus Jure vocatæ* did) but the elder and wealthier Centuries did suffrage next after the Prerogative Century, accordingly as their place required.

*f. Robin. ant.
Rom. l. 6 c. 20*

CAP. 5.

De comitiis Tributis.

FOR the better understanding of these Assemblies by Tribes or Wards, it will be needful first to learn that this Word *Tribus* in this place doth signifie a certain region, ward, or local place of the City, or the fields belonging thereunto, according to that, *g. Tributa Comitibus* *g. A. Gel. l. 15.*
trans, cum ex regionibus & locis suffragabantur. It was so *c. 27.*
 called either *a tributa dando*, every several region or quarter paying such a tribute: or *quia primotres tantum fuerunt*, the whole City being at first divided only into three regions, or wards, each national Tribe having his several region, or local Tribe to dwell in. The first national Tribe called *Ramneses*, did inhabit the Mount *Palatine*, and the Mount *Calvus*; and those two hills made the first local Tribe. The second national Tribe called *Tatianses*, did inhabit the *Capitol* and the *Quirinal Mountain*, which two

Moun-

Mountains made the second local Tribe. The third national Tribe did inhabit the Plain between the Capitol and the Palatine Hill, and that Plain was called the third local Tribe. Of these Tribes more is spoken in the first division of the Roman people. Only here we must note thus much, that in process of time, after the City was enlarged, and the number of the Roman Citizens increased, these local Tribes were also augmented, so that they amounted at the last to the number of 35. some of them being called *Urbanae*, others *Rusticae*. *b Urbanae ab urbis regionibus; Rusticae ab agri partibus erant nuncupatae.* And of those two sorts, the *Tribus rusticae* were accounted the more honourable. Moreover we must remember, that a man might be reputed of this or that Tribe, although he had no place or habitation therein. Concerning the place where these *Tributa comitia* were had, sometime they fell out to be in the *Campus Martius*, sometimes in their great Hall of Justice, called *Comitium*, sometimes in the *Capitol*; many times in other places, according to the discretion of the Magistrate which caused these Assemblies.

CAP. 6.

De Candidatis.

IT shall not be impertinent to annex some necessary observations touching the Roman Petitors or Suitors for bearing Office: where we will observe these three phrases, *Ambire magistratum*, *Inire magistratum*, and *Abire magistratu*. The first signifieth, to sue for an Office: the second, to enter in the Office: the third, to depart out of the Office. Again, the difference of these phrases, *Conferre legitima suffragia*, & *Explere suffragia*. *i* The first signifieth, to have so many voices as the Law doth require. The second signifieth, to have more voices than any other Competitor, but not so many as the Law requireth.

These persons were termed *Candidati*, *a toga candida*; from the white Gown which they did wear, as it appeareth

b Sigon. de
jure Rom. l. 1.
c. 3.

i Rosin. antiq.
Rom. l. 1. c. 6.

eth more at large, where we have spoken *de Romana* to-
go. That they might the easier procure the good-will of
the people, these four things were expected from them,
First, *Nomenclator*, the saluting of every Citizen by his
name, for the better discharge of which, they had a cer-
tain follower, which should by way of prompting, tell
every Citizen his name as he passed by, and hence this
prompter was sometimes called a *Nomenclator*, which
word doth properly signifie a common Crier in a Court
of Justice, such as call men to their appearance, whence
they had their names from *Nomen* and *calo*, an old Latine
word to call; sometimes *b Monitor*, sometimes *Factor ab*
insarciendo in aures. 2. *Blanditia*, that is, a friendly compella-
tion by the addition of some complemental name, as
well-met friend, brother, father, &c. 3. *Affiduitas*, that is,
an hot canvassing, or soliciting men without intermis-
sion. Lastly, *Benignitas*, a bountifull or liberal largess or
dole of Money called *congiarium*, from the measure *Con-*
giu, containing a Gallon; because their dole was at
the first made of Oyl or Wine distributed in those mea-
sures. Howbeit *καταχρηστικῶς* any dole, gift or largess in mo-
ney, or otherwise, is called *Congiarium*. The distributors
of this dole were called *m divisores*, & *m sequestres*, al-
though sometimes *sequester* signified a briber or corrupter
of a Judge. Likewise their bounty or liberality consisted
in providing great Dinners, and exhibiting magnificent
Shews unto the people, &c. Where we must observe, that
as often as this largess is called *Largitio*, it is taken in the
worst sense, namely for an unlawful bribing of the suf-
fragers under a pretended largess, *o Benignitas liberalita-*
tem magis significat quam largitionem.

Rosin. ant.
Rom. l. 7. c. 8.

a Cic. orat.
pro L. Mur.
Mercemur
servum qui
diceret nomi-
niz, &c.

Hor. l. Ep. 6.
b Cic. loco
supra citato

l G. Trapez.
in Philip. 2.

m Sig. de jur.
l. 2. c. 29.
n Bart. Lat. in
orat. pro M.
Cael.

o Cic. orat. pro
L. Murz.

CAP. 7.

De Romanis vestibis.

WE may observe in reading old Authors, that as
well the Romans as the Grecians, had divers di-
ninet

distinct habits, or outward vestiments. The *Grecians* had their Mantle called *Pallium*, the *Romans* their Gown called *Toga*: and by this different kind of garment the one was so certainly distinguished from the other, that this word *Togatus* was often used to signify a *Roman*, and *Palliatas* a *Grecian*. *f Togati pro Romanis dicti, ut Palliati pro Grecis.* Before we proceed, we will first observe what this *Toga* was, and then how many sorts there were. *g Toga, a tegendo dicta est.* It was made commonly of Wool, but, according to the worth and dignity of the person, sometimes of coarser, sometimes of finer Wool, as we may collect by that of *Horace*.

*Mibi sis toga, quæ defendere frigus,
Quamvis, crassa queat.*

Mic. Tor. ib.

We must note with *Toxius*, that no Woman of any credit did wear the *Roman* Gown, but instead thereof did use a garment called *Stola*, from *stare*, signifying *demitto*, *quod usq; ad talos demitteretur*: Whence old Poets, when they would point out unto us an infamous or lewd Strumpet, they would term her *mulierem togatam*. *k* This *Toga* sometimes was worn open and untucked; then was it called *Toga aperta*: other times it was tucked up, and then it was called *Toga precincta*. This cincture or girding up of the Gown, was according to *l Sigonius*, threefold; *Cinctura laxior, astrictior, and Cinctus Gabinus*; *Cinctura laxior*, or the loose kind of girding was such, that notwithstanding the tuck, yet the tail trailed on the ground; *Cinctura astrictior*, the close kind of girding was such, that after the Gown had been lapped, or tucked up, it should not reach so far as the feet. The first kind of these cinctures did argue a remiss, soft, and effeminate mind: the latter did signify the promptness or readiness of the person. *m Unde, Alie precincti, pro expeditis dicti sunt.* 3. *Cinctus Gabinus* was a war-like kind of girding, not so that the whole Gown should be tucked up about the middle, but that it being cast quite backward, the party should gird himself with one skirt there-

of

*f Sig. de jud.
l. 3. c. 19.*

*g Mic. Toxir. in
orat. Phil. 2.*

*i Rosin. ant.
Rom.*

*k Sig. de jud.
l. 3. c. 19.*

l Sig. ib.

m Sig. ib.

of. n This kind of girding was so called from a certain City of *Campania*, called *Gabii*, because upon a time the inhabitants of this City being at sacrifice, were set upon by their enemies, at which time they casting their gowns behind them, and girding one lappet or skirt about them, went immediately to war, even from the altars, and got the conquest. o In memory of which ever after, the *Consul* when he should proclaim war, girded himself in like manner. Neither had the *Consul* alone a peculiar garment when he proclaimed war, but every Souldier in time of war did wear a different kind of garment from the gown, which they called *Sagum*: we may English it a Souldiers coat. Whence *Tully* useth this phrase, *Ad saga ire*, which *Erasmus* hath parallel'd with this, *Ad certamen se accingere*, to buckle for war. Infomuch that *Cedant saga toga*, is equivalent to that of the Orators, *Cedant arma toga*. Touching the difference of the Roman Gowns, I find them distinguished by p *Sigonius* according as followeth; in *Togam Puram*, *Candidam*, *Pullam*, *Prætextam*, *Paludamentum*, *Piſſam*, *Trabeam*. *Toga pura* was the common ordinary gown worn by new married women, and *Tanaquill prima texuit vestem tunicam, qua simul cum toga pura tyrones induuntur, novæq; nuptæ*. *Plin.* l. 8. c. 48. and by private men at mans estate, about the sixteenth year of their age, at which time they were said *Excedere ex ephebis*, that is, to be past striplings. Notwithstanding the sixteenth year was not always strictly without exception observed: q for *M. Aurelius* was permitted to wear this gown being but fifteen years old: and *Ca. ligula* did not wear it till the nineteenth year of his age. This kind of gown beside that it was called *Pura*, was also sometimes called *virilis*, sometimes *libera*. It was called *Pura* in respect of its pure white colour, being free from all admixtures of purple, or any other colour: and therefore some have termed it *ὑαλευκον*, all white, others *ὑνιφαινον*, void of purple. It was called *virilis*, because it was given to striplings, now growing to mans estate.

a Serv. Æncid. lib. 7.

o Alex. Gen. dicit. l. 1. c. 14.

p Sig. de jud. lib. 3. cap. 12.

q Rosin. ant. lib. 7. cap. 30.

Et toga non tacta vincere jussa nives. Mart.

- Whence we use to say of a stripling past sixteen years of age, *virilem togam sumpsit*, he is now become a man. Lastly, it was called *libera*, & because then they did receive some beginnings of freedom, as being about that time freed from their Schoolmasters and Overseers. This kind of Gown was not made open, but sewed down to the bottom, and also it was made without sleeves, so that if at any time they had occasion to use their arms, they would take up their Gown and cast it quite behind them, or upon their shoulder. But these striplings could not for one whole years space, cast back their Gowns in that manner for their liberty of their arms without the imputation of immodesty, as appeareth by *1 Cic. Nobis annus erat unus ad cobibendum brachium toga constitutus*. The like liberty it seemeth was denied those that stood for places of office: *u* and thence it is, that *Horace* wisheth such to hire them a servant,

——— *Lavum*

*Qui fodiat latus, & cogat trans pondera dextram.
Porrigere*———

- In which place by *Pondera* is understood the Roman Gown, as *1 Sigonius* hath expounded that place. Now for the understanding of *Toga candida*, we are to learn a difference between this *candida toga*, and the *toga pura* above spoken of, which is sometimes called *toga alba*, both of which were white, but differed in the degree of whiteness. The *toga alba* had only the natural whiteness of the wooll, the *toga candida* had an artificial white dye, whereby the gloss of the white was made more orient and intensive. Or else as *2 Sigonius* hath observed out of *Isidor*, *Intendende albedinis causa etiam addiderant*, that is, they chalked it to increase the whiteness hereof. And hereunto *Persius* alludeth:

——— *Quem ducit hiantem Cretata ambitio*

Whence *Polybius* calleth it *togam laetitia*, that is, shining or splendid. Moreover, whereas the *alba toga* was the ordinary Roman gown which commonly the Roman Citizens

Citizens did wear, this *Candida toga* was only worn by those which did *Ambire Magistratum*, sue for a Magistracy or place of office, who during the time of their sute, were called from their Gown, *Candidi*: and *Quintilian* borrowing his metaphor from them, hath called a young student *eloquentiæ candidatum*. The third sort of Gown, which I termed *Togam pullam*, was a black Gown, and thereof were two several kinds: the one cole-black, which was worn *luctus causa*, in token of mourning; and the mourners were thence called *Atrati*, and as often as they did wear this gown, they were said *Mutare vestem*, & which phrase in old Authors, doth signifie nothing else but to go in mourning apparel: The other not cole-black, but only foul'd or stain'd, and that was worn *reatus causa*, in times of arraignment, and those that wore it, were called *Sordidati*, a *sordibus* in veste, from the spots or stains in the gown. Where we must note, that in process of time *Toga pulla* became the ordinary gown which the common people did wear, at which time the ordinary gown which the Citizens of better place and esteem did wear, was the *toga candida*; whereupon there did then grow a distinction of the Citizens, unknown to the former age, saith *Rosinus*, namely, that some were termed *candidati*, others *pullati*: *Candidati* were those, not which became suters for places of office (as in old time it signified) but those which did live, in better repute than others; from whence it is, that a he whose office was to read the Emperors Letters in the Senate, was called *Candidatus principis*, or *Legator candidatus*. It did somewhat resemble the office of the King his Majesties chief Secretary. *Pullati* were those of the commonality or inferior sort. The fourth sort of gown was the *Toga pretexta*, so called *quia ei purpura pretexta erat*, because it was guarded about with purple silk. This kind of gown at first was used only by the Roman Priests, and chief Magistrates: Neither was it lawful for such as did wear that gown to be arraigned, or sentence to be given on them,

2 Sg. de jud.
l. 3 c. 19. Cic.
orat. p. 10 P.
Sext.
Suam dolo-
rem vult mu-
tata significat
Romani.

a Fere 1. de
Mag. Ro. c. 3.

b Pet. Pelia-
tius in orat.
pro A. Cecin.

e Alex. gen.
dier. l. 5. c. 18.
d Sig. de Jud.
lib. 3. cap. 19.
e Sigon. ib.

f Rosin. antiq.
lib. 5. c. 31.
g Sig. de Jud.
lib. 3. c. 19.

h Serv. Anei.
lib. 7.

i Alex. Gen.
dier. l. 5. c. 18.

until that gown was put off. In continuance of time this *toga praetexta* was permitted first to noble mens children, afterward to all Roman children in general: whereupon b *Togatus* a *praetexta* differs a *privatus* a *Magistratu*, *vir* a *puer*; and *praetexta* is taken for child-hood, and *praetextatus* sometimes for Magistrates, but commonly for young children. The fifth sort of gown was called *Paludamentum*; it was a military garment, which e none but the Lord General, or the chief Captains did use to wear. d *Isidorus* said it was not only guarded with purple, but with scarlet and gold lace: whence it was sometimes called e *Toga purpurea*, sometimes *docinea*. It was much like the habit which the *Grecian* Emperour was wont to wear, called f *Chlamys*; yea now it is called *Chlamys*; we may English it an *Heralds Coat of Arms*. The sixth sort of gown was *Toga picta*, g because in it were imbroidred goodly pictures with needle-work: It was also called *Purpurea*, not because of any purple-guard (in which respect the *Praetexta*, and the *Paludamentum* were called *Purpurea*) but because it was all over of a purple dye: it was by some termed *toga palmata*, because in it many Palm-branches being the reward and token of Victory were wrought, whence by others it was called *toga triumphalis*, because Emperours in their triumphs did wear such gowns. The last sort of gown was *Trabea*, whereof there were h three several kinds; the one woven all of purple, which was consecrated unto the Gods, the second was purple woven upon white, and this only Kings and Consuls might wear: the third was scarlet woven upon purple, and this the *Augures* only did wear. i This last sort was therefore called *Trabea auguralis*, the second *Trabea regia*, the third *Trabea consecrata*.

CAP. 8.

De Tunica.

Those Coats which were worn under the Gown, were called *Tunica*, and that they were worn under the Gown, appeareth by that adage, *Tunica pallio propior est*, that is; every one for himself first; or according to our English Proverb, Close sitteth my Shirt, but closer sitteth my Skin. & This *tunica* was both narrower and shorter than the Gown: at first it was made without sleeves, afterward with sleeves, and by it, as well as by the gown, were Citizens distinguished. The first sort of Coats was made of white cloth commonly, but purpled over and imbroidred with studs of purple in manner of broad nail heads; whence it was called *Laticlavia*, or *Latius clavus*; and the persons wearing this Coat were Senators, called thence *Laticlavii*. The second sort belonged unto the Roman Knights, and it differed in making from the first, only that the purple studs or imbroidred works of this, were not so broad as the former: whence the Coat was called *Angusticlavia*, or *Angustus clavus*, and the persons wearing it were called *Angusticlavii*. The third sort belonged unto the populacy, or poorer sort of Romans: it was made without any purpled works, being called *Tunica recta*. This Coat was given together with the *virile* gown to striplings past sixteen years old, and to new married women. And as the *recta tunica* was given with the *virile* gown; so was the *tunica clavata* given together with the *toga praetexta*; and the *laticlavia*, otherwise called *tunica palmata*, given with the *toga picta*. The fourth and last sort belonged unto women, being a long Coat reaching down unto the heels: they called it *Stolam*. Upon it they did wear an outward garment called *pallium*, and sometimes *palla*, quia *palam gestabatur*. ⁿ Sigonius saith that this *palla* was a certain gown used by stage-players; howsoever certain it is that

& Sig. de jud.
lib. 3. cap. 20.

/ Salmuth. in
Panciro! lib.
rerum deper-
dit, c. de fibul.

Vid. Turneb.
advers. l. i. c. 2.

ⁿ Rosin. an.
lib. 5. cap. 35.
ⁿ Sig. de jud.
li. 3. c. 19.

not

o Sig. *ibid.*p Sig. *ibid.*

not only women, but men also and children did wear this kind of garment. Besides the *Roman* gown and coat, there remain other parts of their apparel to be spoken of: such are these which follow: *Lacerna*, which some do English a Cloke, but o *Festus* would have it to be a little kind of hood, which men should wear to defend themselves from the rain and weather: it was made that either side might be worn outward: and at first it was worn only in war, so that *lacernati* stood in opposition with *togati*. p *Isidorus togatos pro urbanis, lacernatos pro militibus usurpato scribit*. Afterward, as we may conjecture, it was made longer, in manner of a cloke, for it was divers times worn upon their coats in stead of gowns. Another kind of garment was the *Penula*, so called *quasi pendula*, we may translate it a long hanging cloak. A third was called *Mitra*, which sometimes did signifie a certain attire for womens heads, as a Coif, or such like: though this kind of attire was more properly called *Calantica*: other times it signified a girdle, which more properly was called *Zona*: this *Zona* chiefly signified a Souldiers Belt, or a marriage girdle. The Souldiers Belt was lined within in the inside, where when they went to War they did put their money: whence *Horace* saith of a man that had lost his money, *Zonam perdidit*: and *Ζώνης*, to be girt, signifieth *Ἐνδύσαι τὰ ὄπλα Arma induere, Cat. Rhod. l. 22.* 19. haply because that part of the body which was girt, was consecrated to *Mars*, as the forehead was to every mans particular *Genius*, the arms to *Juno*, the breast to *Neptune*, the reins to *Venus*, the feet to *Mercury*, and the fingers to *Minerva*. *Alex. ab Alex. l. 2. c. 19.* Young maids when they were married were wont to have a marriage-girdle tied about their middle, which their husbands at the first night of their marriage should untie: whence *zonam solvere*, hath been translated to deflower a Virgin. This marriage-girdle in former times was called *Cestus*, from whence cometh the Latine word *Incestus*, and the English word *Incest*: which in truth

truth signifieth all kind of pollution committed by un-
doing, or untying this Girdle, called *Cestus*: But now in
a more strict acceptation it signifieth only that kind of
naughtiness which is committed between two of near
kin; and that other folly which is committed with a
strangers wife, is now properly called *Adulterium*; and
that which is committed with a maid or widow, *stuprum*.

Cal in orat
pro Milone.

The last thing touching their apparel is their shoes. *Cal-*
ceamentum genera duo fuerunt, *calceus*, & *solea*. For the
sole of the shoe, called in Latine *solea*, sometimes *crepidu-*
la, and in Cicero his time *gallica*, was tied on to the bot-
tom of the foot with leathern straps or buckles, and so
worn instead of shoes. The divers kinds of these shoes
did distinguish the Roman people also. To omit the
difference in colours, we may reduce the chief kinds to
five heads; *Mullei*, *Uncinati*, *Perones*, *Cosburni*, *Socci*, all
these sorts of shoes were made half way up the leg, as
the Turkish shoes are, according to *Josephus Scaliger*;
and they were either laced close to the leg, as many of
our boots are now adays; or clasped with taches, or
hasps. The first sort called *Mullei*, from the fish *Mullus*,
being like unto it in colour, were also called from their
clasp *calcei lunati*, because the clasps were made in form
of a half-Moon, which half-mooned clasp resembling
a Roman C, signified a hundred, & intimating thereby
that the number of the Senators (they only being per-
mitted to wear that kind of shoe) were at first a full
hundred and no more. Others are of opinion that they
wore this mooned clasp, to put them in mind that the
honour to which they had attained, was mutable and
variable as the Moon. For they think that these *Lunati*
calcei were not received as a token of Nobility only at
Rome, but in other places, to which purpose they interpret
that of the Prophet, *Esai. cap. 3. In die illo auferes Domi-*
nus ornamentum calceorum & lunulas, *Cæ. Rhod. lect. ant.*
l. 20. c. 28. Ucinati calcei, were those, which the Souldi-
ers were wont to wear. I take them to be the same with
those

r *Cal-*
r *Rofin. ant.*
Rom. l. 5. c. 36.

(*Sa'mur. in*
Pancir. lib.
rerum deper-
d. c. cap. 4:
Fibula,
Appositam
nigre lunam
subte't a'u-
ta. Juv.
Salmut. in
Panciro. l.
rerum d per.
c. de Fibul.

those which they called *Calige*, from which kind of shoes *C. Caesar Caligula* had his name, because he was born in the Army, *Quia natus in exercitu fuerat, cognomen calceamenti militaris, i. e. Caligula sortitus est. Aurel. Viſi. Epis. de vita Imperat.* *Peronæ* (as we may conjecture) were laced up the leg: for *Tertullian* making but two sorts of shoes, saith, There were the *Mullæ*, called from their clasps, *Lunati*, and these *Peronæ* made without such half mooned clasps, called also *Calcei puri*, *quoniam ex puro corio facti*, and these *Peronæ*, or *puri calceos* all the other Romans did wear, & with this note of distinction, that the *Magistrates* shoes were beset with precious stones, private mens were not. Thus much concerning both the kinds and fashion of the shoes may be collected out of *Rosinus* in the place above quoted. The description and use of the *Cothurnus* and *Soccus*, may be seen in the Tract *De Romanis Ludis*.

& Salmuth. in
Pancirof. lib.
rerum deper-
dit. c. de fibu-
la.

LIB. III. SECT II.

Of the Roman Magistrates.

CAP. I.

De Magistratibus Romanis.

WE being to treat of the Roman Magistrates, will first see what the definition of a Magistrate is. A Magistrate is he who receiveth by publick authority, the charge and oversight of humane affairs belonging to the Common wealth. These Roman Magistrates were either to be chosen, only out of the better sort of Romans, called the *Patricii*, or else only out of the Commonalty. *p* The first were thence called *Magistratus patricii*, the second *Magistratus plebei*. The *Patricii* had power to hinder the Assemblies of the people; namely, their *Comitia*, by observing signs and tokens from the heavens: howbeit some of them had greater power, others less, insomuch that some were called *Majores Magistratus*, quoniam habebant majora auspicia, id est, q magistrata. Others were called *minores magistratus*, quoniam habebant minora auspicia. Of these in their order.

o Sig. de jure
Rom. l. 1. c. 10.

p Sig. de jure
Prov. l. 3. c. 1.

q Fenest. de
Magist. Rom.
c. 1.

CAP. 2.

De Regi & Tribunis Celerum.

IN the infancy of *Rome*, it was governed by a King unto *Tarquinius Superbus* his time, who by maintaining that shameful act of his Son towards *Lucretia* did so incense the people, that they did not only for the present exile him, but decreed that their City should never after that be governed by a King. This King had absolute rule and government over the City. For the safety of his person he had three hundred chosen young men alwayes to be attendant about him, much like unto our Kings Majesties Guard here in *England*, or rather his Pensioners. They were called *Celeres* a *celeritate*, from their readiness in assistance: sometimes they were called *Trossuli*, because they alone without the help of any foot-men did take a certain City in *Esperia* called *Trossulum*. Othertimes they have been called *Flexumines*, whereof as yet there hath been no certain reason rendred. Each hundred of them had their severall overseer called *Centurio*: and over them all there was one general overseer, and chief commander, whom they called *Præfectum vel Tribunum Celerum*, his place being next to the King. A second sort of attendants about the King were called *Lictores* a *ligando*, according to that, *Lictor colliga manus*. They were by the *Grecians* called *ῥαβδῶχοι*, which we may render Virgers, from *ῥαβδος* a Rod, and *ῥχοι* to have: though sometimes *ῥαβδῶχοι* do signifie the same as *παλαῖοι*, the Rehearsers of *Homers* verses, or in general of any other Poets: *μαρτ. τὸ παλαιὰ ἀδῶς*, from patching together other mens Poems. For the Reciters of *Homers* verses were wont to hold a Rod or Wand in their Hand during the time of Rehearal. *Cal. Rhod. l. c. 19.* They did somewhat resemble our Serjeants, there being in number twelve of them. Their office was to carry certain bundles of birchen-rods, with an axe wrapped up in the midst

Plutarch, in
Romulo,
f Plin. l. 33.
c. 2.

midst of them: the rods in *Latine* were called *Fasces*, the axe *Securis*. The reason why they carried both axes and rods was to intimate the different punishment that belonged to notorious and petty malefactors. The reason why they were wrapped up together, was not only that they might thereby be more portable, but that the anger of the magistrates might be somewhat allayed, while they were unbinding. Hence, because these *Fasces virgarum & securium*, did betoken honour and chiefdom in place and authority, by the figure *synecdoche*, this word hath been used to signifie honour and dignity, as *Fasces suis abrogatis*, he being discharged of his magistracy or dignity. And *Fasces submittere* to give place, or yield unto. *Valerius Publicola* gave the occasion of the Proverb. He to insinuate himself into the hearts of the people, is said, *Submittere fasces populo quoties prodiret in concionem*. Some interpret it, as if he were wont to command the Serjeants quite to depart out of the Assembly with their rods, which opinion *Plutarch* in *Publicola* confuteth writing thus: αὐτὰς τὰς ῥάβδους ὡς ἀλλοτρίων παρὲν, οὐκ ἐν τῷ δήμῳ ἔκταντο, *Fasces ipsos in concionem progressus populo submitis inclinavisque*. So that the phrase signifieth properly, the not holding up of the rods, or rather the laying them down as it were at the feet of the people. *Cel. Rhodig. l. 12. c. 7.*

CAP. 9.

De Senatu, & quis Princeps Senatus, & qui Senatores Pedarii.

Touching the election of the *Senators*, the number of them, and the distinction of them into *Senatores majorum* and *Senatores minorum gentium*, sufficient hath been delivered in the second division of the Roman people; as likewise in the third division hath been shewn the habit or gown by which the *Senators* were distinguished from the Roman gentlemen. Here therefore it shall be sufficient for us to understand, that every solemn meet-

Joac. Camerarius in orat. pro Flacco. immedicabile vulnus Ense recedendum, &c.

ing, or consistory of these *Senatus* was called *Senatus*. The foreman of them (which could be no other than such, as had been either *Consul* or *Censor*) was called *Princeps Senatus*, and his opinion was alwaies first asked. Now among those that had born those foresaid offices, it was in the *Censors* power to make whom he would fore-men. The decree of this consistory was called *Senatus-consultum*. And many times it is written with these two letters only, S. C. In like manner their preface to these decrees was commonly these two capital letters, B. F. That is *Bonum fas sum*. *Sueton. Jul. Cæs. c. 80.* and it had the same use as, *In nomine Dei* with us. The place where this consistory was had, they called *Senaculum*. None was ordinarily admitted into the place of a *Senator*, before the five and twentieth year of his age: and of those that were admitted, some were allowed to ride unto the Senate-house in a *Curule-chair*, namely when they had born such office, which gave them right unto that chair; others which had not born such office went on foot: whence these latter were called *Senatores pedarii*. They determined their acts which they called *Senatus consultum*, sometimes by departing down their benches, and dividing themselves into sides. Those which did approve that which was proposed, sided with the party who did *Referre ad senatum*, that is, propose the matter unto the Senate; the others departed unto the contrary side; or if they came not down at all, but sat still on the benches, then did they signifie by holding up, or beckning with their hands, what side they would take. Now if the major part were easie to be discerned, then they rested there, tearming that act to be decreed *per discessionem*: and hence these and the like phrases have taken their beginning, *In illius sententiam iturus sum*, and *Manibus pedibusque discedere in alicujus sententiam*, that is, to be fully perswaded of ones opinion. Now if both companies were almost equal, so that the major part could not easily be discerned, then did they proceed to give their voices,

* Mart. Phil-
ticus in Cic. l.
1. ep. fam. 1.

x Mart. Phil-
ticus ibid l.
A. Gel. noct.
Artic. 3. c. 18

y Hubert. in
Cic. l. 1. ep.
fam. 29.

ces, and that which was thus determined was said to be decreed, *per singulorum sententias exquisitas*, that is, by voices. Here we may observe that those, who were favourably heard in *Senatus*, *Hic senatus dare dicebatur*; and likewise they were said, *Stare in Senatu*: as on the contrary they were said *jacere*, whom the *Senate* neglected or rather condemned. *a Cum mihi stanti jacens minaretur*, said *b Tully*. If any Senator were absent without a lawful excuse, then was he fined; and for the payment thereof, he did put in a pledge, which if did not ransom, then did the common Treasurer *Cedere vel concedere pignora*, that is, strain or seize upon the pledges, making common sale thereof, in which sense those two phrases are used, namely, *espere pignora*, & *auferre pignora*, that is, to strain or seize upon a mans goods.

z Ascensus in
Cic. l. 1. c. 18.
f. m. 4.

a Cic. orat. de
arusp. respon.
b Rosin. au.

l. 7. c. 7.

C A P. 4.
De Consulibus.

AFTER the expulsion of *Tarquinius Sup.* the last Roman King, all the Citizens in *Rome* Assembled, and concluded that the government of the City, which before was in the hand of one alone governor, called their King, should now be divided between two: & who at first (before there was any subordinate office as a *Pretorship*) the Romans called *Prætores*, *quod præirent populo*. Not long after they were called *Judices*, *a judicando*. In process of time they were known by no other name than *Consules*, *a consulendis populo*. *d* No Citizen, was ordinarily created *Consul* before the forty third year of his age. Neither might any be chosen without special dispensation, either in their absence out of *Rome*; *e* or in time of their triumph; which was the reason that *Julius Caesar* was glad to forgo his triumph at that time when he was *Consul* with *Bibulus*. The signs or tokens of this *Consular* dignity, were the twelve *Lictors* carrying their bundles of rods and axes the first month before one

c Rosin. ant.
Rom. l. 7. c. 9.

d Cic. orat.
Phil. 5.

e Suet. Jul.
C. l. c. 18.

f Alex. Gen.
dicit. l. 3. c. 33.

Consul,

* Cœl. Rho.
l. 12. c. 7.

g Fereſt. de
Mag. Rom.

b A. Gel. l. 3.
c. 18.

i Stalius in
Flor. l. 1. c. 5.

Consul, and the second before the other, as formerly they had done before the Kings. * Now he that had the rods carried before him in the first month, either he had more children than the other, for the *lex Julia* gave precedence to him who had most children, or he was elder than the other, or in time of the election he was pronounced before the other, for which respects he was called *Consul major*, and *Consul prior*. g The reason why each Consul had not twelve *Lictors* alwaies, was because the tyranny of the Consuls might them seem to be doubled, and to exceed the tyranny of the Kings. Another token was a certain Chair of Estate called *Sella eburnea*, that is, an Ivory chair, so called from the matter whereof it was made, and b because this chair was commonly carried about in a certain Coach or Chariot, wherein the Consul did ride, hence from *Currus* which signifieth a Chariot, it is also called *Sella Curulis*; where i note that the word *Curulis* is sometimes used substantively, and then it signifieth some chief Magistracy or office among the *Romans*. The gown by which they were distinguished from other Magistrates or private men, was a certain purple gown, which from the great embroidered works was called *Trabea*, and he that did wear it, was thence called *Trabeatus*, according to that, *Trabeati cura Quirini*. It will be worth the observation to note, that the *Romans* did date their Deeds and Charters in old time, by naming the year wherein their City was first founded; as to say, *Ab urbe condita*, the twentieth, thirtieth, or fortieth year, &c. But in process of time their manner of dating, was by subscribing the names of their present Consuls; as to say, such a thing was determined, *L. Valerio, M. Horatio Consulibus*, such and such being Consuls: whence *Suetonius* speaking of *Julius Caesar*, saith, he was appointed to be *Flamen Dialis, sequentibus Consulibus*, that is, the next year following. Yea, this was so common a date, that to know the age of their wines, they signed their vessels with the names of their Consuls, adding withall, that

that they might know the goodness of their wine, the name of the country whence it came, according to that of *Juven. Sat. 5.*

— *Cujus patriam, titulumque senectus*

Dilevit: multi a veteris fuligine testē. Turn. adv. l. 1. c. 1.

Those alone who had born the office of a Consul, nor every one that was capable thereof, were said to be *Viri consulares*. & At the first those who were created Consuls remained in their office the space of a whole year, being *designati ad consulatum* upon the twenty fourth of *Octob.* At *consulatum non inierant ante Calendas Jan.* that is, the first of *January*. The reason of this chasm, or *interim* between their designation unto their office, and their entry into it, was (as we may probably conjecture) that the Competitors might have some time to inquire *de Ambitu*, that is, whether there was no indirect and unlawful means used in their canvassing. In process of time, either by voluntary resignation, or deposition, or death, many Consuls have been chosen in the same year, and they were called *non Ordinarii*, & *suffecti Consules*. At such times all their deeds were dated by the names of the two first Consuls which began the year: whence those two first, and likewise all those that continued in their office the whole year, were called *Consules Honorarii*, and *Consules Ordinarii*.

& *Tristinus* in
orat. *Cic. pro*
Cælio.
! *P. Ramus* in
ora. *Cat. 1.*

m *F. Sylv.* in
Cic. orat. pro
Mur.

s *R. sin. ant.*
Rom. l. 7. c. 9.

CAP. 5.

De Censoribus.

THE Consuls finding themselves incumbered with so many businesses of different nature, did by consent of the Senate choose two peculiar Officers, called *Censores* *a censendo*, because they cessed and valued every mans estate, registering their names, and placing them in a fit century. For it did concern the Romans to know the number, and likewise the wealth of the people, to the end they might be informed of their own strength,

o *R. sin. de*
Maz. Rom.
c. 17.

and

and so shape their course accordingly, either in undertaking wars, transplanting Colonies, or in making provision of victuals in time of peace. A second and main part of their office was in reforming manners, to which end they had power to enquire into every mans life. This part of their authority was noted out unto us by this phrase, being called *Virgula Censoria*. If any one had played the ill husband, and neglected his Farm, or left his vine untrimmed, the Censors took notice thereof. They did *Senatu & Tribu movere*, i. e. they did depose Senators and pull down men from a more honorable Tribe, to a less honourable. *Diminutio maxima* was the loss of ones Tribe, City and Freedom. These Censors were reputed of the best rank of Magistrates in Rome; they remained in their office an whole five years space ordinarily; I say ordinarily, because & through the abuse of of their place, the office had been made sometimes annual. That five years space the Romans did call *Lustrum*, because they did once in every five years revolution *Lustrare exercitum Romanum*, by sacrifice purge the Roman Army. Hence we say *duo lustra*, ten years, *tria lustra*, 15 years, &c. The performance of this *Lustration* belonged also unto the Censors: for after the Censors had performed the one part of their office, in registering the just valuation of every Citizens estate, & they did lead a Sow, a Ram, and a Bull three times about the Army, and in the end sacrificed them to *Mars*: and thus to purge an Army, is, *condere lustrum*; though sometimes *condere lustrum* doth signifie, to muster an army. These sacrifices, as likewise all others of the like nature, that is, wherein there was a Sow, a Ram, and a Bull sacrificed, were termed sometimes *u Sui-vetauralia*, sometimes *Solitaauralia*, sometimes *u Taurilia*. Moreover it did belong unto these Censors to farm out the Tributes, Imposts, Tollage &c. y At the five years end, the acts of both their Censors were registred upon books of record, which records were laid up in a certain religious house dedicated

r Feneft. de
Rom. Mag.
c. 7.
/ Pomp. Lat.
de. Rom.
Magist. c. de
Censor.

r Pancirol. l.
rerum deper.
c. de cibi ca-
piendi modo.

u Alex. Grn.
dier. l. 5. c. 27
x Pomp. Lat.
de mag. Rom.
c. de Censor.
y Pancirol. l.
rerum deper-
dit. c. de cibi
capiendi mo-
do.

to the Nymphs. Whence *z* Cicero speaking of Clodius, *z* Cic. pro
 faith, *Qui edem Nympharum incendia, ut memoriam publi-* Milone.
cam incensis tabulis publicis impressam aboleret.

CAP. 6.

De Prætoribus.

THe Consuls by reason of their many troubles in
 War, having no time to administer justice unto the
 Roman people, did for the better help therein, create
 two new Officers for the executing of justice, the one to
 examine and judge of matters within the City, between
 Citizen and Citizen; the other to decide Controversies
 between forreigners. The first they *a* called *Prætorum ur-*
banum, and *Prætorum majorem*; the other *Prætorum pere-*
grinum, & *Prætorum minorem*; we may English them Lord
 Chief-Justice. Where we must note, that at the first there
 was only the *Prætor urbanus*, until the cases and suits in
 law became so many, that one was not sufficient to hear
 them all, *b* yea at last the number of the *Prætors* came to
 16. namely, when those two were added for the pro-
 viding of corn and grain; whence they were called *Præ-*
tores Cereales; *c* nay there were at last 18. *Prætors*, there
 being two others added to judge of controversies touch-
 ing feoffments of trust, called thence *Prætores fidei com-*
missarii. *d* *Causarum duo genera sunt, alie private, alie pub-*
licæ; has criminosas, illas civiles appellant. In those cases
 which were private, that is *e* touching equity and up-
 rightness of any act, or the restitution of any money or
 goods unlawfully detained from the right owner, it be-
 longed principally unto the *f* two first *Prætors* to judge;
g but under them unto the *Centum-viri*, who oftentimes
 are called by Tully, *Recuperatores*, and *Judices hasta*; the
 Court, *Hasta centum-viralis*, because one of the marks
 and special ensigns was a spear erected up in the place
 the Court was kept. Those cases which were publick or
 criminal, as Treason, Murther, Buying of voices in the

a Pighius
æquip.comp.

b Alex. Gen.
dier. l. 2. c. 15.

c Fenes. de
 Mag. Rom.
c. 19.

d F. Sylv. in
 orat. pro Mur.
e I. Saxon. in
 Cic. orat. pro
 S. Rosc.

f Rosin. ant.
l. 7. c. 11.

g Saxonius ibi.

b F. Sy'v. in
orat. pro. Mur.

§ Rosin. ant.
l. 9. c. 18.

§ Rosin. ant.
l. 7. c. 11.

l Rosin. ant.
l. 6. c. 18.

m Sig. de j. d.
l. 1. c. 7.

convailing of Offices, &c. were called also *causa capitales* and *capitis dimissio*, that is, *b* such cases wherein if the party accused had been found guilty, he was *capite damnatus*: by which phrase we must not understand alwaies *Ultimum supplicium*, sed aliquando *exilium*, quo scilicet caput, that is, *Civis eximitur a civitate*. i These cases at the first were heard by the Kings and Consuls; afterward by certain appointed thereunto by the people, being called from their inquisition *questitores parricidii*. In continuance of time the examination and hearing of these publick cases was turned over unto certain Magistrates, who because they were to continue their office a full and entire year (whereas the others had their authority no longer than they sate in Judgement) were thence for distinction sake called *Prætores Quæstiores*, and the cases were termed *Quæstiones perpetuæ*: & because in these cases there was one set-form of giving judgment perpetually to remain; whereas in those private or civil causes the *Prætor* did commonly every year change the form of giving judgement by hanging up new Edicts. I Here we must note, that these *Quæstiores parricidarum*, otherwise called *Prætores Quæstiores*, had not the examination of all publick cases, but sometimes upon extraordinary occasions either the Consuls, the Senate or the people themselves would give judgment. Now as those former *Prætors* had a spear erected up, whereby their Court for private causes was known; so had these *Quæstiores* a sword hanged out in token of their Court. *m Prætorum insignia duo fuerunt, hasta & gladius, illa ad jurisdictionem, hic ad questionem significandum*. The officers which did attend these *Prætors* were *Scribe*, i. e. certain Notaries much resembling the Clerks of our Assises, their office being to write according as the *Prætors* or chief Justices had bid them, taking their name *a scribendo*. The second sort were called *Accensi ab acciando*, from summoning, because they were to summon men to their appearance. They much resembled, our Bayliffs errant. The third sort were *Li-*
tores,

dores; of which before. The authority of the Urbane Prætor was so increased in time, yea his honour was such, that whatsoever he commanded, it had the name of *Jus honorarium*. Others are of opinion, that only the Prætor's edict was that *Jus honorarium*, the Prætor Urbanus being wont at the entrance into his office, to collect a set form of administration of Justice out of the former Laws, and several Edicts of former Prætors, according unto which he would administer Justice all the year following: and lest the people might be ignorant of the Contents thereof, he caused it to be hanged up to the publick view. This form of Justice was termed *Edictum ab edicendo*, i. e. *q. imperando*; because thereby he did command, or forbid something to be done. Whence *Pellius* in the place now quoted, doth translate *Consulum edicta*, Mandatory letters, that it might be distinguished from other Magistrates edicts. It was commonly called *Prætoris edictum*. And as *Pighius* observeth in the place above quoted, it was called *Edictum perpetuum*, not absolutely because the virtue thereof was perpetual, (for that expired together with the Prætor's office, and therefore *Tully* calleth it *Legem annuam*) but in respect of other Edicts made in the middle of the year upon extraordinary and unexpected occasions, which latter sort of Edicts *Tully* calleth *Peculiaris & nova edicta*. Afterward, *Salvius Julianus* collected an Edict out of all the old Edicts of the former Prætors, wherein almost all the whole Civil Law was contained, and this was called properly *Edictum perpetuum*, because that all the Prætors ever after did administer Justice according to that Edict, by the appointment of *Hadrianus* being then Emperor. The Edict being given out, the administration of Justice consisted in the use of one of those three words, *Do*, *Dico*, & *Adico*, i. e. *u. Dat actionem*, *Dicis jus*, *Addicis tam res quam homines*. That is, he is said *Dare*, when he granteth but an action or writ against a man; *Dicere*, when he passeth judgment on him; and *Addicere*, when he in

u. Fentil. de Rom. Mag. esp. 19.

u. P. Pellat. in Cic. orat. pro A. Cæcin. a. p. Pigh. Aeq. pet. com.

q. Pe'it. in Cic. o. at. pro A. Cæcinna.

u. Cic. in Ver.

u. Cic. in Ver. 5. Sig. de jud. lib. 1. c. 6.

u. I. Camerat. in Cic. orat. pro Flacco.

the Court doth see and allow the delivery of the thing or the person on which judgement is passed. The Form of Addition was thus: After judgement had been pronounced in the Court, the party which prevailed, laid his hand on the thing or the person, against which sentence was pronounced, using this form of words, *Hanc ego hominem, sive hanc rem, ex jure Quiritium meam esse dico.* Then immediately did the Chief Justice *Addicere*, that is, approve the challenge, and grant a present possession. *Ant. in Fast. l. 1.* For explanation whereof we must know, that this word *Addico*, is sometimes *verbum Augurale*, sometime *Forense*, sometimes a term of Art belonging unto the discipline of the *Augures*, and so the birds are said *Addicere*, when they shew some good and lucky token, that the matter consulted about is approved by the Gods: the opposite hereunto is *Addicere*, Sometimes this Verb *Addico* is a term of Law, signifying as much as to deliver up into ones hands, or into ones possession: whence we do not only call those goods that are delivered by the *Prætor* unto the right owner *bona addita*, but those debtors also which are delivered up by the *Prætor* unto their creditors to work out their debt, are termed *servi additi*. Yea moreover, because in all port-sales it was necessary that the *Prætor* should *Addicere bona*, deliver up the goods sold, hence doth this word often signifie to sell, as *Addicere sanguinem alicujus*, to take money to kill a man, to sell a mans life. Touching the reason of their name, they were called *Prætores a prætendo, quoniam jure præstant.* And y those alone were properly termed *virî Prætorii* which had born this office, not they which were capable thereof: In the same sense we say *Virî Censorii*, and *Virî Edilicii*, &c.

x M. Toxicæ
in orat. pro
Pub. Quint.

y Fr. Man-
rastius in
Philip. 1.

CAP. 7.

De Imperatoribus, Caesaribus, five Augustis.

WHEN *C. Julius Caesar* had overcome *Pompey* his
 Sons in *Spain*, at his return to *Rome*, the Senate
 welcomed him with new invented Titles of singular
 honour, styling him *Pater Patriæ*, *Consul in decennium*,
Dictator in perpetuum, *Sacrosanctus*, and *Imperator*; all
 which titles were afterward conferred upon *Octavius Ce-*
sar; and all the Emperors succeeding him desired to be
 called *Imperatores & Cæsares* from him. Where we must
 understand, that this name *Imperator* was not altogether
 unknown before; for by that name the Roman Souldiers
 were wont (even at that time) to salute their Lord Ge-
 neral after some special conquest. & These Roman Em-
 perors were afterward called also *Augusti* from *Octavius*
Cæsar, whom when the Senate studied to honour with
 some noble Title, some were of the mind that he should
 be called *Romulus*, because he was in a manner a second
 founder of the City: but it was at length decreed by the
 advice of *Mannius Plancus*, that he should be styled by
 the name of *Augustus*, which we may English *Sovereign*:
 And they counted this name of more reverence and Ma-
 jesty than that former name of *Romulus*, because all con-
 secrated and hallowed places were called *Loci Augusta*.
 The authority of these Emperors was very great, even
 as great as the Kings in former times.

2 Ser. Æa. l. 6.

CAP. 8.

De Principibus juventutis, Caesaribus, & nobilissimis
Cesaribus.

A Custom *a* was received among the Roman Em-
 perors in their life-time, to nominate him whom
 they would have to succeed them in their Empire; and
 him they called *Princeps juventutis, Cæsar, & Nobilissimus*
Cæsar.

a Robin ant.
L. 7. c. 13.

Cesar. The like Custom was practised by *Charles* the fifth Emperor of *Germany*, and so hath been continued by his Successors; namely, that one should be chosen whom they called *Rex Romanorum*, who should be so far invested in the Title to the Empire by the means of the present Emperor, that upon the death, resignation, or deposition of the then being Emperor, he immediately should succeed.

CAP. 9.

De *Præfetto Urbis.*

Romulus for the better Government of the City appointed a certain Officer called *Urbis Præfectus*, to have the hearing of all matters or causes between the Master and the Servant, between Orphans and their Overseers, between the Buyer and the Seller, &c. Afterward in time of the *Roman* Emperors, this *Urbis Præfectus* did assume unto himself such authority, that he would examine and have the hearing of all Causes of what nature soever, if they were *Intra centesimum lapidem*, within an hundred miles of *Rome*: (for *b Lapis* in old time signified a mile, because at every miles end a great stone in manner of a mark stone was erected.) In the absence of the King or Consuls, he had all authority which belonged unto them resigned unto him, I am not ignorant, and that some do make this latter kind of Prefecture, or Lieutenantship, a different Office from the former; but I should rather think them to be one and the same, only his authority to be more enlarged in the Kings absence: and of this opinion do I find *Fenestella*, *Alexand. Neopl.* and *c Sigonius*.

b Desputerius in sua syn-taxi.

e Sig. de jur. Rom. l. 1. c. 20.

CAP.

CAP. 10.

De Decem-viris, & legibus scribendis.

FOR the better administration of Justice, the *Roman* appointed three men, namely, *e Sp. Posthumius, Ser. Sulpitius, A. Manlius*, to go to *Athens*, and other Grecian Cities there to peruse the Grecian Laws: to the intent that at their return, both a supply might be made of those Laws that were wanting in *Rome*, and the other that were faulty might thereby be rectified and amended. At the return of those three men, the Consuls were deposed, and both their Authority and Ensigns given unto ten men newly elected for the Government of the State, and were thence called *Decemviri*. The first elected into this *Decemvirate*, were *Ap. Claudius, T. Genucius, P. Sextus, Sp. Veturius, C. Julius, A. Manlius, Ser. Sulpitius, P. Curatius, T. Romulus, Sp. Posthumius*: all of them such as had born the Office of a Consul. The Laws which they brought from *Athens* were written at first in ten Tables of Brass: afterwards two other Tables were added, at which times these laws began to be known and distinguished from others by the name of *Leges 12. Tabularum*. And according to those Laws Justice ever after was administered to the *Roman* people, at first by these ten men appointed thereunto, whose authority was as large even as the Kings and Consuls in old time, only it was annual. One of them only had the Ensigns of honour carried before him, one alone had the authority of convocating the Senate, confirming these Decrees, and the discharge of all State-business; the other did little differ from private men in their habit, only when the first had ruled a set time, the others succeeded by turns. This kind of Government did not continue long in *Rome*; for in the third year all their power was abrogated, because of their Tyranny and Oppression used by them towards the *Roman* people.

*d Fenest de
Mag. Rom.
c. 14.
e Ro'm. ant.
l. 7. c. 9.*

*f Lip. Reg.
Leg.*

*g Rosin. a. r.
Rom. l. 7.
c. 19.*

CAP.

CAP. 11.

De Interregia potestate.

f Dion. Haic.
l. 2.

g Rosin. ant.
l. 6. c. 16.

b Alex. Gen.
dier. l. 5. c. 6.

AFTER the death of *Romulus*, f the Senators divided themselves into several Companies, called *Decurie*, committing the Government of the Kingdom to that *Decury*, that is, to those ten men, upon whom the lot fell, calling them the *Interreges*. Where we must know that these ten did not rule all together, but each man ruled for the space of five daies, whence g *Rosinus* calleth his Magistracy, *Magistratum Quinqueduumum*. After that five daies Government had passed through the first, then did they go to lots to have a second *Decury* chosen, and so a third, &c. This office of an *Interrex* remained even in the Consuls time, so that if by some extraordinary occasion the Consuls could not be created, b then they chose one, to whom alone they committed the whole Government of the Kingdom, and him they called *Interregem*.

CAP. 12.

De Dictatore.

i Pighius in
Tyrann.

WHENsoever the *Romans* found themselves encumbered with dangerous Wars, or any other eminent dangers, they presently chose a *Dictator*, to whom alone was committed the Authority and Rule of the whole Kingdom, differing from a King only in respect of his name, and the continuance of his Office. Touching his name he was so called, quoniam dictis ejus parebat populus. His Office continued but six moneths, and at the expiration thereof, if need required, he was chosen again for another six moneths. He was also called i *Populi Magister*, inasmuch as none could make their appeal from him unto the people. As soon as himself was established in his office, he chose a subordinate Officer,

fiar whom he called *Equitum Magister* : his authority much resembled his, whom they called *Urbis Praefectum* : for as the *Praefectus Urbis* in the absence of the King, so this *Magister equitum* in absence of the *Dilector* had full and uncontrollable authority of doing what he would.

CAP. 13.

De Tribunis militum.

THESE military *Tribunes* were of two sorts. The one had all power and authority, which belonged unto the *Consuls* : and thence were called *Tribuni militum consulari potestate*. The occasion of them was this : The protectors of the commons called *Tribuni plebis* did earnestly labour that the commonalty might be made as capable of the consular dignity as the Nobility : This was followed so hot, that in the end, though the Nobility would not grant them way unto that dignity under the name of *Consuls* ; yet in effect they would grant it them. Namely the *Consuls* should be deposed, and in their stead other Magistrates should be chosen ; part out of the Nobility, part out of the commonalty, who though they were not called *Consuls*, but *Tribuni*, yet were they of *Consular* authority : by which they were distinguished from the other sort of Military *Tribunes*, who had power and authority only in matters military, and were known by the name of *Tribuni militum*, without any addition. Sometimes there was one of these three words prefixed, *Rutili* or *Rufuli*, *Suffecti* and *comitiosi* ; not thereby to intimate unto us any distinction of office or place, but to signify their manner of election. For if they were chosen by the *Consuls*, then were they called *Tribuni Rutili*, or *Rufuli*, because they had their authority confirmed unto them by vertue of an act of Law preferred by *Rutilius Rufus*, when he was *Consul*. If they were chosen by the Souldiers themselves in their Camp, then were they called *Tribuni suffecti*, that is, *Tribunes* substituted or put

Stajius in
Flor. l. l. c. 11.

1 Roim. 2.
l. 7. c. 24.

1 Alex. Gen.
dier. l. 6. c. 18.

in the place of another. Whence we may conjecture, that the Souldiers were not permitted to make any election, but in time of need, when their former *Tribunes* were taken from them by some violent or unnatural death. The last sort called *Comitiati*, were so called because they were chosen by the *Roman* Assemblies, called in Latine *Comitia*. They were termed *Tribuni*, because at the first institution of them (whether we understand the Consular *Tribunes*, or this latter sort) there were but three of each. In process of time notwithstanding I find the number not only of these *Consular Tribunes*, but of those other also to have been encreased to six, accordingly as the thousands in a legion were multiplied. These latter sort of *Tribunes*, in respect of their Military Discipline, which was to see the Souldiers being faulty to be punished, we may English *Knights Martial*: In respect that their authority was over Foot-men only, we may English them *Serjeants Major*: only this difference there was, to every thousand of foot-men in any Legion, there were as many Military *Tribunes* under their chief Commander called *Imperator*. But in our English Armies there is but one *Serjeant Major*, who alone under the Lord General hath Command over all the Foot-men, be there never so many thousands.

• *Reim. ant.*
l. 7. c. 20.

C A P. 14.

De Triumviris Reipub. constituendis.

THIS tyranny of the *Triumviratus* began by a conspiracy between *Augustus Caesar*, *Antonius*, and *Lepidus*. For these three under the pretence of revenging *Julius Caesar* his death, obtained chief power and authority for the space of five years throughout *Rome*, pretending that they would settle the Commonwealth, which at that time by reason of *Julius Cæsars* death was much out of order. Those five years being expired, they refused to resign their authority, exercising excessive cruelty

• *Fenest. de*
aug. Rom.
c. 21.

ty towards all the *Romans* of what degree soever. q This kind of government remained but ten years, neither ever were there any other than those three above named. They had power to enact any New Law, to reverse any former Act, without the consent of the *Senate*, or *Commons*. They might proscribe and banish any *Roman* at their pleasure, and as often as we read of *Triumviratu* simply without any adjunction, or of *Triumviratu Senatus legendi*, we are to understand it of this, though some upon unsure grounds do dis-joyn them.

q Suet. Octa.
Aug. c. 27.

CAP. 15.

De *Quæstoribus Ararij.*

THIS Office of the *Quæstors* seemeth not unlike to a publique Treasurer, which collecteth the subsidies, customs, mony, yearly revenues and all other payments, belonging to any State or Corporation. And hence *quoniam publica pecunia querenda prepositi erant*, they took their name *Quæstors*. Sometimes they are called *Quæstors Urbani*, to distinguish them from the Provincial *Quæstors*, which bare office in the Roman Provinces: sometimes they are called *Quæstors ararij*, to distinguish them from those that were called *Quæstors paricidij*, or *rerum capitalium*, of which you may see more in the tract of *Prætoribus*. Lastly, they were called *Quæstors ararij*, to distinguish them from the *Tri-buni ararij*, i.e. those Martial Treasurers, or Clerks of the Band which did receive the Souldiers pay from these City-treasurers, and so pay it unto the Souldiers. The office of those City-treasurers (then being at first but two) was to receive all the City-accounts; to disburse at all occasions of publique expences; to take an oath of him that the Souldiers had saluted by the name of *Imperator*, that he had truly informed the *Senate* both of the number of enemies slain, as also

r Fenest. de
Mag. Rom. c. 3.

/Sig. de jure
Rom. l. 2. c. 8.

of the number of Citizens lost; otherwise he might barr the Emperor of his triumph. Moreover whatsoever spoils were taken in War, they were delivered up unto these *City-quaestors*, and they selling them, laid up the money in the great Treasure-house called *Aedes Saturni*.

C A P. 16.

De *Tribunis Plebis*.

† Roⁿ. Epi^r.
rerum Rom.

α Rosin. ant.
l. 7. c. 25.

α Alex. Gen.
djari. 6. c. 14.
γ Rosin. ant.
l. 7. c. 23.

γ Pighi in
suo Tyranni-
Yug.
α Pomp. Lat.

THe *Roman* commonalty finding themselves oppressed by the wealthier sort, departed unto the *Aventine* mount, threatening the *Roman* Nobility, that they would forsake the City, and never again adventure themselves in War for the defence thereof, unless they did find some release and easement, from those excessive payments of use and interest unto their Creditours: yea, besides the remission of their present debts, before they would return unto the City again, they would have certain Magistrates chosen, which should be *sacrosancti*, that is, such as might not be hurt or violently used, not so much as in words: and if any had violated that law whereby they were made *sacrosancti*, then was he accounted *homo sacer*; that is, an excommunicate person, or such an one whose soul should be vowed unto some God; inasmuch that if any after had killed him, he should not be liable unto judgement: *quoniam illius anima diis devota amplius humani commercii non sit*. To those *Magistrates* the protection of the Commons was committed, who because they were at first chosen out of the *Military Tribunes*, therefore did they alwayes retain the name of *Tribunes*, being so called, that they might be distinguished from the others, *Tribuni plebis*, Protectors of the Commons. At the first institution of them they were in number but two, as *some* have thought: *a* Others say five, afterward (as it is yielded by all Writers) they increased unto ten. Their authority at first consisted chiefly in this, that they had power to hinder any proceedings.

ceedings in the *Senate*, which they thought might prove prejudicial unto the Commons, so that they had not authority to enact any new Decrees, as afterward by abusing their authority they did. *b Sed eorum auctoritas magis in intercedendo, quam jubendo.* And hence was it that in old time these Protectors of the Commons were not permitted to come into the *Senate*, but *c* they sat without at the door, whither whatsoever was determined within the *Senate* was sent unto them, to be perused by them, and if they did approve it, then did they subscribe a great roman T, being the first letter of this word *Tribuni*. *d* The houses of these *Tribuni* stood open night and day, as a common refuge or place of succour for all that would come; *e* neither was it lawful for them to be absent out of the Town one whole day throughout the year.

b Stadius in
Flor. l. 3. c. 2.

c Pigh. in s. 10
Tyrannifug.

d Rosin. ant.
Rom. l. 7. c. 23.
e Pigh. in suo
Tyrannifug.

CAP. 17.

De Aedilibus, & Praefecto annonae.

WE may read of three sorts of Roman Magistrates called *Aediles*, the two first had their names *ab aedibus curandis*, having in their charge to repair both Temples and private dwelling-houses which belonged unto the City. The first sort were called *Aediles curules*, *a sella curuli*, from the Chair of State, wherein it was permitted them to ride, and these were chosen out of the *Senators*. The second sort were called *Aediles Plebei*, and they were added unto the former, at the earnest suit of the Commons, they being to be chosen out of them. Where we must note that they were not so added, that both sorts should rule at one and the self same time, *g* but that the *Curules* should rule the one year, and the *Plebei* the other. To these *Aediles* it did belong, beside the reparation of Temples and private houses, to look unto the weights and measures in common sale: for they had power to examine *Actiones redhibitorias*, that

g Philot. in
l. 2. Cic. epist.
fam. 10.

g Alex. Gen.
dier. l. 4. c. 4.

that is, such Actions, by vertue of which he had sold any corrupt or sophisticated wares, was constrained to take them again. Moreover they had the charge of the publique Conduit or water conveyances, of provision for solemn playes, &c. Of the third sort there were also two, who were in a manner Clerks of the Market: *b* for unto them belonged the looking unto the victuals sold in the Market, and corn: Whence they were called by them *Ædiles Cereales*, and *i* by the Greeks ἀγοραῖοι. This office, for ought that can be collected out of those that treat of it, differeth but little from his, whom the Romans called *Annone præfectum*; only this, the *Ædiles Cereales* were *Magistratus ordinarii*; the *Præfectum*, *extraordinarius*, namely, *k* such as was chosen only in time of extraordinary dearths: he having for that time larger authority than those ordinary Clerks of the Market. For as it appeareth by *Rosinus* in the place now quoted, this *Præfectum* had power of himself to examine all such cases or questions as should arise touching the dearth: as suppose the hoarding of corn, fore-stalling the Market, &c.

CAP. 18.

De *Triumviris*.

BEsides that *Triumviratus Reip. constituenda*, of which we spake before, there were divers kinds of *Triumviratus*, namely, *Triumviri Capitales*, three high Sheriffs, who had the charge of Prisons, and were to see malefactors punished. For which purpose eight *Lictors* did attend them. There was also *Triumviri Minarii*, three men, we may term them Bankers, who had authority to pay out of the Common Treasury poor mens debts. Sometimes there were appointed five to this office, whence they were also called *in Quinque viri Mensarii*, both being called *Mensarii* from *Mensa*, a Table whereon they told their mony. Another sort of *Triumviri* there were appointed to press Souldiers, whence they were

b Alex. Gen.
ibid.

i Pighius. in
suo Tyran.

k Rosin. art.
1. 7. c. 28.

l Alex. Gen.
dier. l. 3. c. 16.

m I. Comen.
in ora. Cic.
pro Flacco.

were called *Triumviri conquirendi juvenes idoneos ad arma ferenda*. We read also of certain *Triumviri*, which were elected as chief Captains to guide and conduct the people in transplanting Colonies, and thence were they named *Triumviri colonie deducende*; but sometimes for this purpose, they elected seven, ten, or twenty, and so named them *Quinque viri*, *Septem viri*, *Decem viri*, & *Viginti viri Colonie deducende*. Three other sorts of *Triumviri* remain, which were officers of small account, as the *Triumviri monetales*, three Masters of the Mint, who thence was called *Triumviri A. A. Æ. F. F.* that is, *Auro*, *Argento*, *Ære*, *Flando*, *Ferundo*, for they had the charge of coining the money. 2. *Triumviri valetudinis*, three Pest-men, which were to oversee those that lay infected with any contagious sickness. Thirdly *Triumviri nocturni*, three Bell-men, which were to walk the Town at night, and to give notice of fire.

*u Alex. Gen.
dier. l. 3. c. 164*

CAP. 19.

De Præfectorum Ærarii.

Augustus Caesar desiring for the better safety of the City to maintain many bands of Souldiers, which should alwaies be in readines for the defence of the City, desired of the City a yearly subsidy for the maintenance of those Souldiers: but being denyed it, he built a certain Treasure-house which he called *Ærarium militare*, whereinto he cast his money for himself and *Tiberius*; and promised to do so every year. Afterward when he saw the Treasury not to be enriched enough, either by that money which himself bestowed, or by the contributions of others, he appointed that the twentieth part of all inheritances and legacies (except it were to the next of the kin, or to the poor) should fall unto this Treasury. For the charge and custody hereof he appointed three of those Souldiers which alwaies attended about him for the safeguard of his person, calling them *Præfectorum Ærarii*.

CAP.

CAP. 20.

De Præfetto Prætorio.

oPancir. in
no itiam im-
per. orien.
p Pighius in
Æquipet.
compof.

q Alconius in
Ver. en.

r Fr. Sylv. in
Catil. 2.

ALL Captains and Governours to whom the Rule of any Army belonged, were in ancient time called *o Prætors*: This word *Prætor* fignifying then three chief Officers among the Romans, firft a Consul, fecondly a L. chief Juftice, thirdly a L. General in war; all of them being called *p Prætores, quafi Præitores, quoniam jure & exercitu præbant*. Answerable to which threefold acception, this word *Prætorium* hath three feveral fignifications: fometimes it fignifieth a Princes palace or Manor-houfe, fometimes a great hall or place where Judgment was wont to be given, and laftly, the L. General his pavilion in the Camp; *q* from which laft fignification it is, that thofe Souldiers that gave attendance about that pavilion for the guard of their Captains perfon, are fometimes called *Milites Prætoriani*, fometimes *Cobors Prætoris*. *r* And he to whom the oversight of the Souldiers was committed, was thence called *Prætorio-præfæctus*.

CAP. 21.

De Advocato fifci.

FOr the right understanding of this office, we muft firft note a difference between thefe two words, *Ærarium* and *Fifcus*, *Ærarium* was a common Treasury belonging unto an whole State or Corporation, whence all publick and common expences were to be fupplied. *Fifcus* was the Kings or Emperors private coffers: it may be Englifhed the Kings Exchequer: The keeper thereof was called *Advocatus Fifci*. There are many other petty officers within the City, which I have purpofely omitted, becaufe there is but feldom mention of them in old Authors; and as often as they are mentioned, their names do explain their office.

CAP.

CAP. 22.

De præcipuis Magistratibus provincialibus.

OVER the Provinces at first ruled certain Magistrates sent from Rome, by Commission from the Roman Senate, called *Prætores*, whose office was to administer Justice unto the Provincial inhabitants, yea, and if occasion served, to make war also upon their enemy; and this was the reason that the number of the *Prætors* did so increase alwayes, namely, according as the number of Provinces did encrease. The wars and tumults in the Provinces sometimes were so great, that the *Prætor* was not sufficient both to manage war and execute Justice: whereupon the Senate thought fit to send another Magistrate into the Provinces, whom they called a Consul, because properly the managing of war belonged unto the Consul, so that there were at first two ordinary Provincial Magistrates, a Consul to manage war, & a *Prætor* or Lord Chief Justice to sit in Judgment. And if these two by a second grant from the Senate, did continue in their office above the space of a year, then were they called *Proconsules* & *Proprætores*. But in process of time this custom was altered; for then none could be *Proconsuls*, but those alone who had been Consuls in Rome: neither could any be *Proprætors*, which had not been *Prætors* at Rome. Their manner being that the next year after the expiration of their offices in Rome, they should depart into some certain Province, to bear the same offices again, being not called *Consules* or *Prætores* as before, but *Proconsules* and *Proprætores*: and for this cause alwayes so soon as the Consuls had been created, the Senate did appoint certain Provinces for the Consuls, which being appointed, the Consuls did either agree between themselves, who should go to the one, who to the other, and that was termed *comparare provincias*; or else they did decide the question by lots, and that was termed *sortiri provin-*

/ Alex. Gen.
dier. l. 3. c. 3.

etiam: howbeit, sometimes the Senate did interpose their authority, and dispose the same. Under the Emperours the Governours of some Provinces were appointed by the Senate and the people, and those were called *Proconsules*, and the Provinces, *Provinciae Consulares*, others were appointed by the Emperors, and they were called *Propraetores*, and the Provinces *Prætorie Provinciae*. For all this which hath been noted touching the Provincial Magistrates, it is almost *verbatim* translated out of *u Rosinus*. To which we add this, namely, that every Proconsul and Proprætor did usually chuse a Lieutenant, such a one as should be assistant unto him in matters of Government, whom they called *Legatum*, so that this word *x Legatus* signified three several Magistrates among the *Romans*: two whereof may be proved out of *y Sigonius*: first, that it signifieth such a Lieutenant, or Lord Deputy under a Proconsul, or Proprætor in a Province. 2. That it signified such a one as is employed in the delivery of a Message or Embassage from one Prince or State to another: we commonly call them Embassadors. Lastly, it signifieth a Lieutenant or chief Captain in war, whose place was next under the L. General. His Office at the first institution, was not so much to rule or command, as to assist the Lord General in counsel; whence *Polybius* commonly joyneth these two together *πρεσβυτὴς καὶ συμβούλος* this is, *Legatus & Consiliarius*, that the latter word might expound the former, *Lipsius mil. Rom. l. 2. dial. 11.* Moreover, every Proconsul and Proprætor had with them certain Treasurers, called *Quæstores provinciales*: These Provincial Treasurers were chosen by the *Roman* people commonly, namely, such a number as the number of Provinces did require. After the election, they between themselves did cast lots who should go unto the one, who unto the other Provinces: *b* sometimes extraordinarily by vertue of special act or decree, this or that special man hath obtain'd this or that Province without any lottery. By the way we must note,

z Camer. p. 0
L. Flacco.

u Rosin. ant.
l. 10. c. 14.

x Pomp. Lat.
de Mag. Rom.
y Sig. de jur.
prov. l. 2. c. 2.

a Sig. de jur.
prov. l. 2. c. 3.

b Sig. ibid.

note, that all Provincial *Questors* could not be called *Proquestors*, as all Provincial *Consuls* and *Prætors* were called *Proconsules* and *Proprætors*: & For those only were called *Proquestores*, which did succeed those Provincial *Questors*, when they did either die in their Office, or depart out of the Province, no successor being expected from *Rome*, at which time it was lawful for the *Proconsul* or *Proprætor*, to choose his *Proquestor*. Moreover, there were besides these *Legati & Questores*, & other Military Officers, such as are the *Tribuni militum*, *Centuriones*, *Præfecti*, *Decuriones*, together with other inferior Officers, as their Secretaries, Bayliffs, Cryers, Serjeants, and such like.

¶ *Rofin. ant.*
Rom. l. 7.

¶ *45.*

¶ *Sig. de Jur.*
Prov. l. 2. c. 2.



LIB. III. SECT. III.
Of the Roman Punishments.

CAP. I.

*Supplicia, Multa, Lex, Ateria, Tarpeia, Ego ei
 unum ovem multam dico, &c.*

Touching the Military Punishments, which be-
 longed to the Military Discipline; it shall
 be treated of in its proper place. Here only of
 the City Discipline, and the usual Punishments
 exercised therein, which we may divide thus. Punishments
 publicly inflicted on malefactors, are either *Pecuniary*
multas, or *corporal punishments*: The *Pecuniary multas* were
 of two sorts; either an appointed sum of money was requi-
 red of the party guilty, and then it was called *Multa*; or
 his whole estate was seized on, and then it was termed
 a *Confiscation* of his goods.* The *Multa* was twofold, the
 one termed *Multa suprema*, the other *Multa minima*.
 Of both these a *Gellius* writeth thus, *Suprema multa erat*
duarum ovium, & triginta bonum, pro copia scilicet bonum, &
penuria ovium, sed cum ejusmodi multa pecoris armentique a
magistratibus dicta erat, adigebantur boves ovesque, alias pre-
tii parvi, alias majores, eaque res faciebat inaequalem multe
punitionem:

* Gell. l. II.

punitionem : id circo postea lege *Ateria* constituti sunt in over singulas *aris deni*, in bodes *aris centeni* : *Minima vero multa fuit ovis unius*. Moreover as he observeth in the same place, whensoever the Magistrate did set a fine or mulct upon the offenders head, he used the word *Ovis* in the Masculine gender, as *Ego ei unum ovem multam dico*, &c.

The Law which *Gellius* calleth *Ateriam legem*, h *Festus* b *Festus* in vo-
calleth *legem Tarpeiam*, because *Arerius* enacted it when ce *peculari*.

he was Collegue or fellow-Consul with *Tarpeius*. Likewise we may take notice of the Clemency used in those times. It was provided by the Law, that seeing there was a greater plenty of Oxen than of Sheep, and to be fined an Ox, was not so much as to be fined a Sheep; therefore the Magistrate pronouncing the fine, c *Bovem* c P. in lib. 18.
prius quam Ovem nominaret, ut innotesceret Romanis mitiores semper pœnas placuisse. c. 3. It. Alex. ab Alex. l. 3. c. 5.

CAP. 2.

Capitis diminutio, maxima, media, minima, Aqua & Igni interdicti, Proscriptio, Lata fuga, Deportatio, περυσισμός, ενλιτέυω, Aerarii, In aerarios relati, Religatio, Lanii cum tintinnabulis.

THE corporal punishments were either such as were *Capital*, depriving a man of his life : or *Castigatory*, such corrections as served for the humbling and reforming of the offender, or for the destroying of him. *Capital* punishments were sometimes taken in a Civil acceptance, for the loss of freedom, which the Romans called *capitis diminutionem*, disfranchising, because in every Freeman thus Disfranchised, one head of the Corporation was as it were cut off : sometimes it is taken for the loss of ones life, and this they called *Ultimum supplicium*. That Disfranchising, called *capitis diminutio*, was d threefold. *Maxima, Media &* d Roïn. ant.
Minima. The least degree was, when the *Censors* pulled l. 9. c. 31.
a man from an higher Tribe, down to a lower and less

honourable,

e Sg. de Jur.
Rom. l. i. c. 17.

f A. Gel. noſt.
Attic. l. 4. c. 7.

g Camerar. in
orat. Cic. pro
Mur.
h Cael. Rhod.
l. 15. c. 17.

i Roſin. ant.
l. 9. c. 12.

honourable; or when by any censure they diſabled a man from ſuffraging, or giving his voice in the publick Aſſemblies: ſuch as were thus in the laſt manner puniſhed, were termed *Ærarii*, and *In ærarios reſati*, e qua omnia alia jura civium Romanorum præterquam tributi & Æris conferendi amiſerunt. This kind of puniſhment as it may ſeem, was many times exerciſed for irreverend geſture or ſpeeches uſed by ſuch as were queſtioned by the Cenſors. Three ſeveral examples are noted by f Gellius; the laſt is this, P. Scipio Naſica and M. Pompiſius being Cenſors, taking a view of the Roman Knights, obſerved one of them to have a lean ſtarvling horſe, himſelf being fat and in good plight; whereupon they demanded the reaſon why his horſe was ſo lean, himſelf being ſo fat: his answer was, *Quoniam ego, inquit, me curo: & equum Statiu meus ſervus. Diminutio media*, was an exilement out of the City, without the loſs of ones freedom: g It was commonly ſet down in this form of words, *Tibi aqua & igni interdico*. And it ſeemeth by h Cael. Rhodiginus, to be all one with that kind of baniſhment which the Romans called *Proſcriptio*, though it cannot be denied but that *Proſcriptus* ſometimes ſignifieth only ſuch a one whoſe goods are ſet at ſale to ſatiſſie his creditors, becauſe he will not appear in the Court, the form thereof was thus; The Creditors having obtained leave of the Lord Chief Juſtice to proceed in this manner, they committed the ordering of the ſale to one principal creditor, and he was called ſimply *Maſter*, and he in the name of all the reſt ſolemnly proclaimed in the chief places of the City in form as followeth, i *Ille debitor noſter in ejuſmodi cauſa eſt, ut bona ejus divendi debeant; nos creditores patrimonium ejus diſtrahimus; quicumque emere volet, adesto*. But for the reconciling of both opinions, we may term the firſt to be *Proſcriptionem hominum*, the other *Proſcriptionem bonorum*, which diſtinction being not obſerved, breedeth a great conſuſion in the Authors that treat of this puniſhment: and becauſe both were performed by ſolemn and publick

publick Proclamations, -hence the name *Proscriptio* agreed as well to the goods confiscated, as to the persons banish'd; according to that, *Quoniam eorum nomina in publico scribebantur, hinc proseribi dicebantur*. Hence the Grecians used not only the word *νεκροειση*, but also *συνδουλον*, to signify the act of *proscription*, because they wrote in a publick pillar the faults and offences of such as were thus banished. But to proceed without farther digression, *Diminutio maxima* was the loss both of the City, and the freedom; and this I take to be the same which in other terms was called *Lata fuga*, or *Deportatio*; namely, a perpetual exilement: All standing in opposition to that other kind of banishment, called *Regulatio*, which was the exilement * only for a season, happily for five years, &c. See *Rhod. lib. 10. cap. 5*. Though I deny not but that *lata fuga* was so called, not only in respect of the duration of time, it being a perpetual banishment, but also in regard of the places so generally prohibited; for he that was thus banished, was tyed and limited to one particular Country, all other places in general being forbidden him. Those punishments that deprived of life in ordinary use, and of which there is most frequent mention in Roman Authors, are these which follow: *Furca, Crux, Carcer, Culex, Equuleus, de rupe Tarpeia dejectio, Scala, Gemonia, Tunica, Damnatio, in gladium, in ludum, ad bestias*. In general we are to note, that the execution was without the Gates of the City, to prevent the noisomness which such abundance of blood might occasion, *n* for which reason the Executioners dwelt without the City. Likewise those that were adjudged to death, when they went to the place of Execution, a certain little Bell was tyed about them, that by the sound thereof, the people might beware of touching the condemned person, because the very touch of him was counted a kind of pollution: this *o Turnebus* observed out of *Zonaras*, and from thence the Executioners are called *p Laniæ cum tintinnabulis*. And for this reason

† Fr. Matur. in
Philio, orat. 5.
/ Suidas in vo-
ce *σύνδουλον*.

* Adde quod
editum
quanyis im-
mite minasq;
Attamen in
poenæ non ine-
lene iit;
Quippe rele-
gatus, non ex-
ul dicor in il-
lo. Ovid de
trist. lib. 2.
Eleg. 1.
in Thelofan,
syntag. jur.
universal. 31-

n Plaut. Cas.
2. 6.

o Turn. adv.
lib. 11. c. 21.
p Plaut. pseud.
lib. 3.

g Rosin. ant.
l. 10. c. 29.

y Tertul. Apo-
log. c. 33.

reason g it was, that a little bell and scourge was hang-
ed up in the hindmost part of the Chariot, wherein the
Lord General did ride in his triumph, a publick Officer
which rid with him in the same Chariot, now and then
plucking him behind, and bidding him look back, using
this form of words, *Respice post te, hominem memento te,*
that is, *Sir look behind you, remember your self to be but*
a man. For the sight of the scourge and bell served
to put him in mind, that notwithstanding his present
Triumph and Acclamations, his after-miseries might be
such, that he might be punished not only with whips,
but even with death it self.

C A P. 3.

Furca, Fuscifer, Supplicium more Majorum, σύγκυμα.

a Hidor. orig.
l. 10.

b Plutarch. in
Co. iol.

c Epit. Livii.
dec. 5. lib. 6.

A Ncient Authors which do write of the Roman *Fur-*
ca, do rather mention it, than explain it: but if
we diligently observe what they speak of it, we shall
find the use thereof to have been threefold. The first
ignominious, which a was when the Master forced the
servant for small offences *furcam circa urbem ferre*, to car-
ry his *furea* upon his shoulders about the City, confess-
ing his fault, and admonishing others to beware of the
like offence, and b hence such a servant was afterward
called *fuscifer*; and here I think was use of those *stimuli*
or goads, whereof I shall speak more in the Chapter fol-
lowing; namely, that when the party thus to be punish-
ed dragged back, and shewed himself unwilling, then
did the Executioner prick him forward with these kind
of goads. The second sort was penal, when the party
having the *furea* on his neck, was led up and down the
Cirque, or some publick place, and on the way to be whipt,
but not unto death: c thus C. Marienus damnatus sub
furea diu virgis cesus erat, & sesterio nummo venit. He
was

was afterward sold, and therefore died not under the punishment. The third sort was penal too, but in a higher degree; namely, when the malefactor having his head fastened to the *furca*, was whipt under it unto death; and this was by a peculiar named called *d Supplicium morte max-jorum*. This yet differed from that beheading with an *Ax*, which was in use among the Romans, and called by the Grecians *παρακλάς* from *παρακλῆς*, signifying an ax or hatchet; it differed I say from this, because howsoever there was in this *συνεφ' πρόσδεσις* a tying the party to a stake or post, and also *μαστιγώσις*, a whipping, in both which it agreed with the former punishment; yet herein they differed, because in the former they were whipped to death, in the latter they were after their whipping beheaded with an ax, as appeareth by the execution of *Antigonus* the King of the Jews. But to proceed in the description of the *furca*, the form thereof I take to be like the beam of a Wain, unto which the yokes are fastened; it resembleth a fork, and the *furca* is called *ξύλον διπλὸν, δικρὺν, δίδυμον*, i.e. *lignum duplex, bicornitium, geminum*, in English a forked piece of timber; there is no such piece throughout the whole Wain, as the form of Wains is in these times, but only the beam thereof. *Plutarch* treating of the *furca*, saith that it is *ξύλον, ἀμύνει* *τὸ βύμην ἀποκείδουσι*, that is, a piece of timber about the waggon or wain, wherewith they upheld the beam; and he addeth, that what the Grecians call *σποράτην* and *σήμεγμα*, the Romans call *furca*: now *Hesychius* describeth *σήμεγμα* to be *τὸ δικρὺν ὃ περ' ἀποκείδεται τὸ τῆς ἀμάξης ζυγῶς*, that is, the forked piece of timber, which they put under the yoke of the Wain; correct *Plutarch* by *Hesychius*, and for *τὸν βύμην* read *τὸ ζυγόν*, and you have in both the description of the beam in the Wain. Some think that *Plutarch* compareth the *furca* to certain forked pieces of timber, wherewith the Wain was upheld whiles it was unloaded; but how this can stand with *Hesychius* his description of *σήμεγμα*, I am yet to learn; notwithstanding

ing if we admit this interpretation, that which I would hence infer is rather confirmed, than any way weakened; namely, that the form of the old Roman *fures* way forked; neither do there appear any testimonies so evident to me, as to perswade that among the ancient Romans any other was in use. True it is that in after-ages the form thereof was the very same with our *Gallowses*, which are now in use; and this haply began, when the use of crucifying was interdicted, which interdiction we read first to have taken place in *Constantine's* time.

b Soz. in Eccl. hist. l. 1. c. 8.

CAP. 4.

Crux Servile supplicium, Tñulus.

CRUCIFIXION hath been a punishment in ancient use among the Romans; it was abrogated by *Constantine*. It was a death that commonly servants were sentenced unto, seldom times freemen, whence it is many times noted out by the name of *servile supplicium* by *Tacitus*: yet sometimes freemen, though of the baser sort, and for notorious offences, were adjudged to this kind of death: nay a clear example hereof we have in that * *Guardian* which *Galba* crucified for poisoning his Ward, for the Guardian calling for the benefit of the Law, and avouching in his plea, *That he was a Roman Citizen*, *Galba* as if he would allay his punishment with some comfort and honour, commanded the Cross already made to be changed, and another to be reared far higher than the ordinary, and the same laid over with a white colour. Those which were thus to be punished, they bore their Cross upon their shoulders to the place of execution. i *Malefici enim ad supplicium educuntur, quisque suam effert crucem.* k *Artemidorus* is as plain, *ὅτι ὁ σταυρὸς θάνατος ἢ ἐμύθηον πνεύματιν, ἡ σταυρὸν αὐτοῦ θάνατον*, that is, The Cross is like unto death, and he which was to be crucified did first bear it: The party that suffered this kind of death, was first stripped of all his clothes, for he suffered naked; then

b Vid. Lips. de cruce. l. 1. c. 11.
* Suet. Gal. 9.

i Plut. de sera numinis vind.
k Vid. Lips. de cruce l. 2. c. 5.

l Artemid. l. 2. c. 51.

then was he fastned unto the Cross, and that commonly with nails, the Greek word *πρωήλασις* clearly evinceth as much; we may render it *Clavifixio*. Now that the equity of the proceeding might clearly appear to the people, the cause of his punishment was written in Capital letters; hence *m Dio* speaketh of a servant dragged to the Cross *μετὰ γραμμάτων τῆς αἰτίας* & *θανατώσεως ἐνδύτων*, that is, with letters declaring the cause of his death. This inscription was called *αἰτία*, *Mat. 27. 37.* It was also called *τίτλος* *Joh. 19. 19.* from the Latine word *titulus* used in the same sense. And sometimes *ἐπιγραφή* & *αἰτίας*, *Mar. 15. 26.* or simply *ἐπιστάθην*, *Luke 23. 38.* *n Tertullian* and *o Suetonius* calleth it *elogium*. The like kind of publishing the cause either by an Inscription, or by the voice of a common Crier, was not unusual in other capital punishments, as *Attalus* the Martyr was led about the Amphitheatre, *πράξας αὐτὸν προδύοντες*, ἐν ᾧ ἐπὶ ἑκατέρω ῥωμαῖσι, ἑστὸς ἐστὶν Ἀττάλῃς ἡ χριστιανός. i. A table being carried before, in which was written in Latine, *This is Attalus the Christian*. That of *q Suetonius* is not much unlike, *Patrem familias detractum e speculis in arenam canibus objecit, cum hoc titulo, Impie locus Parmularius*. What is meant in this place by *Paterfamilias* and *Parmularius*, hath been already declared in the Chapter of *Fencers*. Moreover, such as were to be crucified, they were also whipt before they suffered. That same *horrendum carmen* clearly evinceth as much: the parts whereof are two: First, & *Verbera intra aut extra pomerium*. Secondly, *Arbore infelici suspendito*. This whipping was sometimes *sub furca*; for this, **Valerius* is plain, *Cum servum suum verberibus multatum sub furca ad supplicium egisset*; sometimes *ad columinam*, *Artemidorus* is clear in this, *πρὸς τοῦ κίονος πολλὰς ἔλαβε πληγὰς*, that is, being tied to the Pillar he received many stripes. Haply *f Plautus* alludeth to the same:

————— *abducite hunc*

Intro aq; adstringite ad columinam fortiter.

Yea, the antient *f Fathers* say that our blessed Saviour

B b 2

was

*m Vid. Lipf.
de cruce l. 2.
c. 11.*

*n Apol. c. 11.
o Suer. in Cal.*

*p Euseb. eccj.
hist. l. 5. c. 1.*

*q Suet. Dom.
c. 10.*

r Liv. l. 1.

** Val. Max.
l. 1. c. 7.*

*f Plaut. Bac.
Prudentius
Hieronym.
Beda vid. Lipf.
de cru. l. 2. c. 4*

was thus whipt: Touching the place or manner the Scripture is silent, only that he was whipt it testifieth, and that with scourges, Τῇ ἰνδὴν ὀργάνῳ αὐτὸν ἔκτανεν αὐτοὶ δὲ, Mat. 27. 26. This fore-whipping I take to be a matter unquestionable, but that they should be whipt on the way towards the place of execution, I much doubt; much more that they should be goaded on the way with pricks and goads by the executioner. That there was a *Stimulium supplicium*, a kind of punishment with pricks and goads, is evident, and hence cometh that phrase *Stimulo fodere*, and hence that other phrase of *kicking against the Pricks*. Parallel to which is that of *Plaut. Truc.* 4. 2. *Stimulos pugnis cadere*. But this kind of punishment I take to have been exercised only by Masters towards evil servants, and that not as preparatory to death, but for their reformation in future times: whence by way of contempt, a servant thus handled, was termed x *Carnificium cribrum*, because he had his back so boarded with those pricking instruments that it looked like a sieve full of holes. Otherwise if we understand it as a punishment imposed by publick authority, we may say, that thereby is denoted a certain punishment exercised towards thieves in time of their examination, that by the pricking and goading of them, the truth might be confessed; * for to that end thieves were thus tortured, and thence were they called *centrones*, from x *ἵππος Stimulus*. Lastly we must remember that these three words, *Furca*, *Crux* and *Patibulum*, are many times used promiscuously, signifying the whole Cross on which malefactors suffered: but in strict propriety of speech, *Furca* signifieth that forked instrument of which we treated in the former Chapter; *Crux*, that erect part of the Cross standing upright; and *Patibulum*, the thwart piece of timber upon the top of the Cross: yet sometimes also *Patibulum* is taken for the Roman *furca*, whence *Patibulatus* and *Furcifer* are used as words equivalent, and in both senses it may borrow its name from *Pates* to lie open; because

a Plaut. m'l.

2. 6.

x Plaut. Most:

* Cael. Rhod.

lect. antiq.

l. 10. c. 5.

as the malefactors hands were spread abroad being fastened to the thwart piece of timber upon the top of the Cross: so were they likewise spread abroad under the *Furca*, his two hands being tied to the two forked ends thereof.

CAP. 5.

Carcer, Ergastulum, Tullianum, Robur, Mala mansio, Nervus, Columbar, Numella, Codex.

Howsoever *Carcer* and *Ergastulum* are used promiscuously by modern Writers, yet if we diligently enquire into each words origination, and how they have been used by more antient Authors, we shall find them thus differenced. *Ergastulum* was a Prison much resembling our house of *Corredion*, into which servants only were cast: *Carcer* a more publick Prison; unto which men of better rank and fashion upon just occasion were committed. Secondly, the power of sentencing any servant to the *Ergastulum*, was proper and peculiar to the Master of the servant, without approbation from publick authority: but the power of committing to the Prison called *Carcer*, was only in the publick Magistrate. Thirdly, *Ergastulum* took away only the liberty and pleasure of life: *Carcer* life it self. The word *Carcer* hath his name a *coercendo*, from restraining men from their liberty. ^{a Sig. de jud. l. 3. c. 17.} It had two principal parts, the one called *Tullianum*, the other *Robur*, besides many other rooms wherein men were kept close Prisoners: those two places were assigned for execution. In that which they called the *Tullianum* (we may English it *Dungeon*) they strangled malefactors. ^{b Sig. ibid.} It had its name from *Servius Tullus* a Roman King, the first inventor and Author thereof. Of this *Salust* writeth, *Est locus in carcere quod Tullianum appellatur, ubi paulatim ascenderis ad levam circiter duodecim pedes humi depressus, cum muribus undiq; parietibus, atq; insuper camera lapideis fortibus junctis, sed inculta tenebris, odore fœdo, atq; terribili ejus facies est.* In that other place which they called commonly

e Plaut. Poen.
5. 2.

d Plaut. Poen.
5. 6.

e Hor. lib. 2.
Od. 13.

f Turn. adv.
1. 23. c. 22.

g Plaut. in
cur. c. 28. 5.
sc. 5.

b Val. l. 5. c. 4

i Plaut. Aulu.
2. 5.

k Cic. pro Milone.

l Turn. adv.
3. c. 18.

commonly *Robur*, sometimes e *Robustus Codex*, sometimes d *Custodia lignea*, sometimes e *Italum robur*, (our English phrase *strong hold* fitly answereth it) they broke malefactor's necks by a kind of precipitation or tumbling them headlong f from a certain stock of a Tree fastned there in the earth, unto this Tully alludeth, *Quero frigeris ne in carcere cervices illi ipsi Vellio*: But more expressly Plautus g *At ego faciam vos ambos in robusto carcere ut pereatis*. Those that had that chief oversight in such executions, were called *Triumviri capitales*, that is, *High-Sheriffs*. The whole proceeding is set down by Valerius, h *Mulierem damnatam Prator Triumviro necandam in carcere tradidit, quam receptam is qui custodia præerat, misericordia motus non protinus strangulavit; aditum etiam filia dedit, sed diligenter excusse, ne quid cibi inferret, existimans futurum, ut inedia consumeretur; cum vero animadvertisset filiam matrem laqueis sui presidio sustentantem, rem ad Triumvirum, Triumvir ad Pratorem, Prator ad consilium judicum perulit, & mulierem mulieri impetravit*. It is much controverted among Interpreters what that kind of punishment was which they termed *Malam mansionem*, we may English it, *Little ease*. Some understand hereby a certain deep dungeon, made in the form of a pit or well, called therefore in Latin *Putens*, but this as it seemeth by that of Plautus, was a punishment proper and peculiar to theevish Cooks: i *Coqui abstulerunt, comprehendite, vincite, verberate, in puteum condite*. Others understand hereby a close Prison, which because of its straitness and closeness they called *arcam*, a chest: the use of this Prison was for the safe keeping of such who were afterward to be examined of farther matters; though sometimes other offenders were cast into the same. Of these Prisons Tully speaketh, k *Su- bito abrepti in questionem, tamen separantur a cæteris, & in arcas conjiciuntur, ne quis cum his colloqui possit*. Another kind of Prison there was, called *Sestertium*, thus it is commonly rendred in Latine, but the Greek word is *οσρέφω*, and accordingly l Turnebus renders it *Sestertium*, being

being of opinion that it was so called from the quantity of ground it contained, namely two acres and an half. *C. Rhodiginus* thinketh that *Spoliarium* and *Sextritorium* were not places unlike; but herein not he alone, but divers others have been deceived; for *Sextritorium* is apparently a place of execution, where those were executed whom the Roman Emperours adjudged to death: now whether that *Spoliarium* were a place of Punishment, I much doubt. What in Latine we call *Spoliarium*, that the Greeks termed *σποδιστήριον*, both do signifie primarily little Cells or Chambers near adjoining to the Bath, where such as washed themselves laid up their cloathes; In a borrowed sense both are used to signifie Chambers and Cells adjoining near unto the Amphitheatre or fencing place, wherein the Fencers did put up their cloaths in time of fight, and because such as were wounded in fight were carried into those Chambers, where they languishing with much pain, at last notwithstanding expired for the most part, and that not without much torturing of the Chirurgion; hence such a *Spittle-house*, is also called *Spoliarium*. Thus much *Seneca* seemeth to intimate, *c Nuncquid aliquem tam cupidum vite putas, ut iugulari in spoliaro, quam in arena malis!* Whereby it appeareth that *Spoliarium* was not a prison, unto which malefactors were judged, but rather as I said, a kind of *Spittle-house*. Other kind of punishments there were of a near likeness with Imprisonments, as casting into the Pillory, laying one by the heels, &c. Of these little is spoken more than the very names: of this sort those that do most commonly occur in Authors, are these; *Nervus*, *Collumbar*, *Numella*, *Codex*. *Nervus* is generally thought to resemble our *Stocks*. *d* Some take it to be made of wood, others of iron, *c Nervum appellamus fetrum vineum, quo pedes impediuntur: quoniam Plantis eo etiam vinciri cervice ait.* Two of the last seem to have some resemblance with our Pillory: *Collumbar* had its name from *Collum*, because the neck was chiefly pained

b Plur. in Gal:
ba.

c S. n. ep. 94.
De spoliaro.
Vid. Lips.
far. 1. 18.

d Vid. Taub-
man in Plaut.
Aulul. 4. 10.
e Fest. Vid.
Lam. in Plaut.
Aulul. 4. 10.

* Turn. adv.
l. 13. c. 21.

in this kind of punishment. *Nucella* was also a kind of Pillory, being so called; *quasi n. Nucella, quod qui eo vinculo conficti erant, nuere demissaque spite esse cogebantur.* Codex was a certain block or *Clig*, so tyed unto the Malefactors, that they used it as a stool to sit on: The use of this may seem to have been only in private houses, thereby to keep evil servants the closer to their work: Of this *Juvenal* speaketh, *Sat. 2.*

* Turn. l. 13.

Horrida quale facis residents in codice pellem.

* Turnebus describeth it thus, *Codex est ligneus stipes, quem allegati servi qui deliquerunt irabebant, cuique infidebant vincti.*

CAP. 6.

C U L E V S.

p Cic. pro.
Sext. Rosc.

THE crime which in Latine we call *Parricidium*, is murder practised by Father or Mother towards the children, or by the Children towards either of their Parents. It had in old time a larger acception, signifying any murder between man and man, and then it was called *Parricidium, quis par parem occiderat.* The word taken in his first and proper signification, denoted a fact so unnatural, that neither p *Solon* nor *Romulus* would determine any punishment against such offenders, because they thought none so wicked as to commit it, and the prohibition it self might prove a kind of irritation to provoke some to the commission of the crime, which otherwise would never have entred into their hearts: but the wickedness of the after-times, enforced Lawgivers to invent a sharp punishment against such unnatural offences. The punishment decreed against Parricides in q *Seneca's* Age, was that such malefactors should be sowed up in a leathern sack, together with serpents, and so cast into the Sea: afterward there was sowed up in the same sack an Ape, and a Cock, and at last a Dog, whence *Juvenal Satyr. 8.*

q Sen. lib. 5.
controv. 4.
in fine.

Cujus

Cajus supplicio non debuit una parari

Simia, nec serpens unus, nec culcus unus.

Juv. Sat. 8.

a *Modestus* describeth the manner thereof thus: The Parricide being first whipt with rods until the blood came, then was he sewed up in this sack called *Culcus*, together with a Dog, a Cock, a Serpent, and an Ape. *b* They would not cast him naked into the sea, lest the water thereof thereby might be polluted, wherewith all other pollutions in their opinion were expiated.

a Digest. lib. 48. ad legem Pomp. de Parric. v. d. Cæ. Rhod. l. ii. c. 21. *b* Cic. pro. Sext. Rosc.

CAP. 7.

Eculus, Lamina, Ungula, Fidicula, xivis.

E *Culcus* had its derivation from *Equus*, quasi *Equuleus*, as may be collected from that description which *c* *Turnebus* giveth; but not so much from the posture or situation of the offenders body on the Engine, as *Turnebus* would have it, for he in no wise resembled a man on horseback, but rather from the horling or hoisting up of the party fastened with ropes unto the *Equuleus*, so that his hands being tied fast at the upper part of the Engine, and his feet at the nether part, he was hoisted up in the air like unto one fastned on a Cross. The form of the *Equuleus* I conceive thus: It it was not one intire stake but rather two long pieces of timber joyned together in form of a stake, joyned together, I say, by the means of a vice or scrue; and the reason hereof was, that by help of this scrue, the upper part of the Engine might be lifted up to the racking and torturing of the malefactor, or let down to the easing and remitting of his pains, as should seem good to the executioner, or other Officers who now and then would grant some remission and respite in hope of a confession. For in the first institution the main end of this torture was to work out the knowledge of the truth. Neither did they alone rack the parties joynts in this kind of punishment, but to enforce him unto a confession by an augmentation of his pain

c Turn. adv. l. 4. c. 3.

C c

they

d Sig. de Jud.
l. 3. c. 8.

e Sozo. hist.
Eccl. l. 5.
f Prudent. in
hymno. Vir-
cent. Mart.

g Turn. adv.
l. 4. c. 3.

they did often with hot plates and iron pinfers, burn and tear his flesh from his sides; and all this we shall find warranted by *d. Sigonius*, whose words I have written down at large, *Eculius catasta. fuit lignea, coelestata, ad intendendum ac remittendum apta, atq; ad torquendus homines, ut facti veritas eliceretur, instituta.* Tormenti vero genus erat huiusmodi, ubi catasta. huius brachia pedesq; ejus, qui torquendus erat, nervis quibusdam, quæ fidiculae dicebantur, alligaverant, tum catasta intentis atq; in alium erecta, ut ex ea quasi ex cruce quadam miser ille penderet, primum compagem ipsam ossium illius divellebant, deinde candentibus ejusdem corpori laminis admotis, atq; bisulcis ungulis ferreis lateribus laniatis doloris acerbiter augebant. And thus we see what the use of those *Laminae & Ungulae* were: namely, that they were not several torments of themselves, but adjuncts to this, to encrease the pain. The *Eculius* was sometimes called *lignum tortorium*: sometimes *stipes noxialis*. The torturing Engine called *Fidicula*, was not much unlike: *Fides* signifieth the string of any musical instrument, and the Engine had its name from the strings and cords wherewith men were tortured upon it: of this *g. Turnebus* writeth, *Fidiculae quæ in tormentis numerantur, mihi videntur lascivia quadam joci nomen invenisse, quod ut in fidibus nervi itent quoq; ut nervi. hinc & inde multis funibus homines distendebantur.* The torment *tormenta* used by the Grecians, was either this same or very like.

CAP.

CAP. 8.

De rupe Tarpeia dejecti. Et lapide empti. A furca redempti. Scala Gemonia. Tunica. Damnati in gladium, ludum, ad bestias.

Malefactors for notorious offences were tumbled down headlong from a certain rock in the *Tarpeian Mount*. This kind of punishment was called either simply *Dejectio e saxo*, or *Dejectio e Tarpeia rupe*. In some cases notwithstanding by the intercession of friends, or some other means, Pardons were sometimes obtained for the condemned persons, whereby they were freed from death, howsoever the disgrace and infamy cleaved ever after unto them, and therefore they were termed *de lapide empti*: which phrase *b Cael. Rhod.* hath paralleld with that, *a furca redempti*, that is, *Saved from the Gallows*. In the *Aventine Mount* was a place of like nature, called *Scala Gemonia*, certain stairs whither condemned persons were dragged, and so cast headlong into the river *Tiber*. *Cael. Rhod.* seemeth to be of another opinion: i who describing this punishment, saith that a hook was thrust into the malefactors throat, and so he haled by the Executioner unto these stairs, where having his thighs broken he was burnt. Furthermore he addeth, that they were called *Scala Gemonia*, or *gradus Gemonii*, because as some are of opinion, the first that suffered this kind of punishment, his name was *Gemonius*: or as others would have it, because it was *locus gemitus, & calamitatum*. If we admit that malefactors were here burnt, then may we think this punishment *ad Scalas Gemonias* to be the same, which sometimes was called *Tunica*. The reason of which name was, because persons thus to be burnt, were clad with a Coat dawbed in the inside with pitch and brimstone. Thence is that of *Seneca*, *Cogita illam tunicam alimentis igneam & illam & imbecam*. This giveth light to that of *Juv. Sat. 8. Tunica punire molesta*.

*b Cael. Rhod.
ant. l. 25. c. 22.*

*i Cael. Rhod.
l. 10. c. 5.*

k Sen. ep. 14.

*J. Tertul. ad
Mar. yr.*

*m. Vid. Lipf.
Sar. l. 2. c. 3.
n. Lipf. fat.
l. 2. c. 23.*

*o. Alex. ab
Alex. l. 3. c. 5.
p. A. Gell.
l. 5. c. 14.*

I. Tertullian also mentioneth it in this sense. To these may be added two other punishments usually inflicted upon fugitive servants, but yet not so restrained unto them, as that they were not sometimes extended to other malefactors. The first is *Damnatio in gladium*, a condemning one into a Fence-school, there to be trained up in the Art of Fencing, until some publick prizes were plaid, at what time such a condemned person was to fight for his life. *m. Capitolinus* calleth it *Ad gladii ludum disputationem*. But *Ulpian*, as *n. Lipsius* elsewhere observeth, differenceth these two phrases thus: He that was *ad gladium damnatus*, was either presently put to death, or else at farthest within the compass of a year: but he that was *damnatus in ludum*, had not death so peremptorily sentenced upon him; if he escaped the danger of those publick prizes, and alwaies got the upper hand of his adversaries, at three years end he received the *Rodem*, or wand, which was a token of discharge from those bloody combats: yea, at five years end he received the *Pileum* or Cap, which was a token of his enfranchisement or freedom in the City. The second sort was *Damnatio ad bestias*, a condemning of a man to fight for his life with beasts, as with Bears, Leopards, Lions, &c. The persons condemned were termed *o. Bestiarii*. A memorable example thereof we have in a certain *Roman* servant called *Androclus*, *p* who having run from his master, lived in a wilderness, and whiles he rested himself in a den, there came a fierce Lion unto him, moaning and grieving because of a stump of a Tree which stuck fast in his foot: *Androclus* at first began to be affrighted, but the Lion coming nearer and nearer unto him, and laying his foot on the mans lap, intimated his desire of help from him, which when the man perceived, he plucked out the stump, and gave him what ease he could. Afterward this fugitive being apprehended and adjudged to this punishment, it hapned that this very Lion was brought into a saw-place for *Androclus* to fight with, where instead of

a fierce onset, the Lion used a tame and familiar fawning on him, whereupon the spectators admired, and understanding the former passages between *Androclus* and the Lion, they released the servant, and freed him from his punishment. Where we must note, that this Pardon was extraordinary: *q* for usually if any so condemned happened to overthrow a Beast or two, yet was he not thereby discharged: but was to encounter with others until he were killed. Yea, it was very seldom that the man could prevail against the beast, on the contrary, one Lion hath prevailed against two hundred men, according to that, *r* *Præclara adilitas, unus Leo ducenti bestiarii*. By which we see many men one after another did thus fight with beasts at the same meeting; yea the *Grecians* called such as succeeded the first Combatants *ἰσίδωρος*, the Apostle *St. Paul* calleth them *ἰσίδωρος*, because they were reserved untill the last. *u* *Tertullian* readeth that place in this sense, and the words themselves enforce as much: for what shall we understand by *δίαγορ ἰσίδωρος*, but the very spectacle or shew it self, and what *ἀνιδωρος*, which signifieth properly *Ostendit*, but an allusion to him who was the chief Author and exhibiter of these bloody spectacles unto the people? ** Lipsius* hath paralleld that phrase of *Tully*, *Ostendere munus*, with that of *Suetonius*, *proponere munus*, both signifying the setting forth or bestowing the fight of such mysteries and fightings. And that it was no unusual kind of Martyrdom in times of the Primitive Church, thus to expose holy men to the fury and rage of wild beasts, appeareth by the example of *Ignatius*, who rejoiced to be grownd between the teeth of wild beasts, that he might be found pure bread; whose words were, *x* *Fruentum sum Christi, & per dentes bestiarum mori, ut mundus panis Dei inveniat*: yea the word *ἐνιδωρίσθαι, mori addidit*, helpeth this interpretation: The word intimateth that there was a sure death remaining for them also though the last. The custom being in the morning to commit men with beasts, but those

q Salmuth. in
Parcirol. de
veter. iud. s.

r Cic. in cran.
pro Sestio.
Suidas in
voce *ἰσίδωρος*
u 1 Cor. 4. 9.
x Tertul. lib.
de pudicit.

** Lips* Sat.
l. 2. c. 18.

x Item. adv.
hæret. l. x. c. 28.
Ic. Euf. hist.
Eccl. 3. c. 33.

y Suet. Clau.
c. 13.

2 Sen. ep. 7.

those *Exatol* which remained till noon-tide, and were therefore called y *Meridiani*, was committed each against other, and that without any defensive weapons, with swords in one hand cutting, and with the other hand being empty, grasping and tearing each others flesh, so that 2 *Seneca* speaking of this, comparing it with that former fighting with beasts, saith, *Quicquid ante pugnatum est, misericordia fuit.*

CAP. 9.

Ergastulum. Ergastula inscripta. Pistrinum. Damnari in Anliam. Metallum. Inscripti. Stigmati. Literati. Virga. Flagelli. Talio.

THe state and condition of servants was various and differing among the Romans in old time, but of all they were most miserable who lived in prison. Whence those that were ordinarily employed in these prison services, they were either such servants as were bought for that purpose, or such as for notorious crimes were adjudged thereunto in way of punishment, whence the word *Ergastulum* is justly derived from the Gr. *εργαστηριον* because it is *το οπου οι δαμνηται εργαζονται* locum in quo vinculi operantur. For even in the day-time when they were sent to work, they had shackles and bolts about their legs to prevent their escapes or running away, though not so big as those into which they were cast at night when they returned into prison. Their fetters or bolts are oftentimes in ancient writers (peradventure from the form of their links) termed *Annuli*, and themselves said to have *pedes Annulatos*. They had also their foreheads marked or burned with some letters of infamy, which is the reason of *Juvenals* Epitheton, *Inscripta Ergastula.*

Quem mire adficiunt inscripta Ergastula.

The labours in which they were employed, were, sometimes digging, delving, and tilling the ground: sometimes digging of quarry pits, sometimes grinding with an hand-mill, sometimes drawing water; This latter kind

Such mens pains, or for to keep them from escapes, they were enforced to work with their fetters and gyves about them, as is implied by *o Ulpian*, who makes the difference between these two phrases, *Damnari in metallum*, & *Damnari in opus metalli*, to be thus; that the first sort did wear heavier and greater fetters than the last. How true the difference is, I leave it to the inquiry of others, but that it was a great and infamous punishment *p Tertullian* witnesseth, in that speech of his against the Heathen people, *De vestris semper aestuat carcer, de vestris semper metalla suspirant*. Sometimes there was only ignominy, and disgrace intended in their punishments, of which sort was the bearing up and down the Roman *furea* in the Market place, or elsewhere in publick view, whereof I have spoken in the Chapter of *Furea*, likewise a branding of the malefactor with some infamous letter in the forehead or hand, or some other part of the body; whence *q Pliny* calleth such servants *Inscriptos*. Generally they are called *Stigmati*, from *stigma*, which signifieth to brand with marks; as *Nebulo stigmaticum*, a rogue burnt in the hand, or any way marked; sometimes such are called *Literati*. The *Athenians* being enemies to the *Sami*, as often as they took the captives, they did use thus to burn them for rogues, which occasioned that proverbial scotme, *Samiis neminem esse literatiorem*.

Sometimes besides the disgrace, there was also toilsom pains as appeared by their *Ergastula*, and sometimes to their pains, stripes added: Though I deny not, but that many times, correction with stripes was a preparation for death it self. This correction by stripes was twofold, either it was *Verberatio*, or *Flagellatio*: The first was with rods called *Virga*; the other with scourges called *Flagella*. That there was a difference between *Virga* and *Flagella*, is plain by *Tully*, where by way of Irony he saith, *Porcia lex virgas ab omnium civium corpore amovit; hic misericors flagella retulit*. Both of them were counted servile, so that freemen were ordinarily exempted from them, as appeareth,

— m Ad

o Vid. Cael.
Rhod. l. 10.
c. 5.

p Tertul. A-
polog. c. 44.

q Plin. l. 18.
c. 3.

r Cael. Rhod.
l. 7. c. 13.

— *m* Ad necem operire loris. San. loris liber? *m* Ter. Adel.
 Horace allu intimating the servile condition of *Mura*, *ad. s. scip. r.*
 faith,

n *Seclius flagellis hic triumviralibus.*

x *Epod. Od.*

They are called *Flagella triumvralia*, from those *Triumviri* whom formerly I translated *Sheriffs*, because to them belonged the oversight of the punishment. *Eustathius* calleth them *ἀστυλαῶται μάστιγας*, i. e. *Flagella talaria*, seu *taxillata*, because to augment the pains, they did usually in these scourges tie certain huckle-bones, or plummetts of Lead at the end of the whip-cords, or thongs, and such scourges they termed *Scorpiones*. The cruelty of the scourges was such, that they many times died under them. Thus have we generally and briefly touched the more usual Punishments. But sometimes wrongs done between party and party, were punished with a retaliation of the same kind: according to that, *A tooth for a tooth, and an eye for an eye*. And this kind of punishing was called *Talis*. Yet we are to know that a simple retaliation, such as is termed *Talis Pythagorica*, was not always exacted; but sometimes satisfaction might be wrought by a commutation of the punishment. *o Rens*
habuit facultatem paciscendi, & non necesse habuit pati talionem, nisi eam elegisset. It were endless to speak of all their Punishments, and haply not worth the labour, their very names being sufficient Comments to explain them. As *Effossio oculorum*, *Amputatio manuum*, *Crucifragium*, *Talisfragium*, and such like.

*Tholosan. in
 synag. jur.
 univ. c. 11.
 l. 31.*

*o A. Gel. l. 11.
 c. 1.*



LIB. III. SECT IV.

Of the Roman Laws.

CAP. I.

Le Legibus.

a Sig. de jud.
l. 1. c. 7.

b F. Sy'v. in
orat. pro Mil.

HAVING spoken of the Civil Magistrates, and punishments, we will now also descend unto the Civil Law: where first we will note among other differences between *Jus* and *Lex*, principally these. 1. *Lex* signifieth only the Law, but *a Jus* signifieth also that place, wheresoever the Law or Justice was administred: not only if it were administred out of the Tribunal in the *Comitio*, or great Hall of Justice, which was termed by the Lawyers, *Agere pro Tribunali*: but also if it were administred in a private house, or in ones journey, so that it were by a lawful Magistrate, and out of a curule chair; and this was termed by the Lawyers, *Agere de plano*: and hence is it, that *In jus vocare* signifieth to cite one into the Court. 2. *Lex* signifieth only the written Law, but *Jus* signifieth equity, so that *b Jus* *permaneas semper nec unquam mutetur*, *Lex vero scripta sepius*. Notwithstanding these two words used promiscuously one for the other, and therefore leaving all curious differences between those words (whether the Roman laws were truly *Jura* or *Leges*) thus much we may observe, that the laws used among them were of three sorts:

sorts: either they were such as were made by several Roman Kings, and afterward collected and digested into a method by *Papirius*: from whence it was called *Jus Papirianum*: or they were such as the *Decem-viri* brought from *Athens*, and were called *Leges 12. tabularum*: or lastly they were such as the *Consuls*, the *Tribuni plebis*, and such Magistrates did prefer, whence every several law bore the name of him or them that preferred it. My purpose is to explain only this latter sort, and that not all of them, but such alone as I have observed in *Tully*, and that chiefly in his *Orationes*. My proceeding shall be first to shew the divers kinds of Judgements: and then to descend unto the laws themselves, beginning with those which shall concern the *Roman Religion*, and then proceeding to the others which concern the *Common-wealth*.

e F. Sylv. in
ep. virorum
illustr. l. 5.
ep. 11.

CAP. 2.

De Jure publico & privato.

THE cases to be decided by the law were either public or private, and accordingly were the judgements, *d vel privata, in quibus jus suum privatus quisque persequabatur: vel publica, in quibus injuria que reip. facta erat vindicabatur.* The private (as we observed before) belonged unto the *Prætori urbano & peregrino*, that is, the L. chief Justices, who did either give judgement themselves, and then were they said *judicare*, or they did appoint others to sit in judgement, and e then were they said *Judicium dare*: in the absence of the *Prætori* there were ten call'd *decem-viri Silitibus judicandis*, i. e. *super lites judicandas*, who in the same manner as the *Prætor*, might either give judgement themselves, or appoint others, for they were even in g one place and instead of *Prætori*. Those which either the *Prætor* or the *Decem-viri* did appoint to debate the cases under them, were taken out of the *Censum-viri*, that is b out of certain Commissioners chosen for that purpose

d Sig. d: jure
Rem. l. 2. c. 18.

e Sig. de jud.
l. 1. c. 7.

f. Roñ. ant.
l. 7. c. 29.
g Alex. Gen.
diel. l. c. 16.

b P. Ramus in
2. m. de lege
Agrar.

pose, namely three out of every Tribe or ward: so that in all, the number of them amounted unto an hundred and five: but in round reckoning they went for an hundred: and from a certain spear that was wont to be erected up in token of this court, hence was the court called either *Prætoris Decemviralis*, or *Centumviris*, *hæsta*. In some cases their form of acquittance was thus, *h Secundum illum litem do*. Whence *l Tully* saith, *quo minus secundum eos lit detur, non recusamus*, that is, we do not deny but they may be acquitted. Those that were cast in their suit, were said *Lite vel causa cadere*. The publick cases belonged ordinarily (except the *Consuls*, the *S. nate*, or the people did interpose their authority) unto those whom we called *Prætores Quæstiores*. Some have thought them to be the same with those whom *m Rosinus* calleth *Judices Quæstionum*, and that I think not altogether upon unsure grounds: first because most of these publick cases which they termed *Quæstiones*, had their *n* several *Prætores* to enquire them, whence they were called *Quæstiores*, and may in my opinion be called *Judices quæstionum*, especially seeing that those which would have them be different officers, cannot well shew the differences of their offices. Now as the Urban *Prætor* had an hundred Commissioners under him, so had these *Prætores Quæstiores*, certain Judges chosen *e* by the Urban, or foreign *Prætor*, when he took his oath: and that not according to his pleasure as many as he would, or whom he would, but sometimes more, sometimes out of both, sometimes out of the *Senators*, sometimes only out of the order of *Roman* Gentlemen, sometimes out of both, sometimes *alio* out of other orders, *p* according as the law appointed, which oftentimes varied in those points. The Judges how great soever the number was, *q* were called *Judices selecti*, and were divided into several companies called *Decuriae*. These Judges were upon any citation from any of the *Prætors*, to give their assistance in the Court upon the day appointed by the *Prætor*. Now the manner how they

i Sig. de jud.
l. 1. c. 28.
k Sig. de jud.
l. 1. c. 29.
l Ci. pro Q.
Roscio.

m Roⁿ. ant.
l. 2. c. 18.

a Sig. de jud.
l. 3. c. 4.

d Sig. de jud.
l. 3. c. 6^r

b Sig. ibid.

e Sig. de jur.
Rom. l. 2. c. 20.

they did proceed in their judgement, followeth in the exposition of one of the Laws, and therefore I will refer the reader thither. Only let him by the way understand, that whereas *Tully* is quoted in every Law, it is not so much for the proof of the law, as to signify that he in that place maketh mention thereof. For the proof of the laws I refer the Reader to *Rosinus* and *Sigonius*; touching the expositions, my marginal quotations do prove sufficient.

CAP. 3.

*De legibus religionem spectantibus.**Lex Pap'ria.*

L. *Papirius Trib. pleb.* established a law touching the consecration or hallowing of places, that it should be unlawful for any to consecrate either houses, grounds, altars, or any other things, *Injussu plebis*, that is, without the determination of the Roman people in their assemblies, called *Comitia Tributa*, which determination was always termed *plebiscitum*. Cic. pro Do-
mo.

Roscius lex.

L. *Roscius Orto Trib. pleb.* preferred a law, that whereas heretofore the Roman Gentlemen did stand promiscuously with the commons at their theatral shews, now there should be fourteen benches or seats built for those Roman Gentlemen, which were worth H.S. *quadraginta*, that is, about 3125 l. of our English money. As for other Gentlemen, whose substance was under the rate, they had a certain place allotted them by themselves, with a punishment imposed upon them, if they offered to come into any of those fourteen benches. Cic. Phil. 1.
It. pro Mur.

Here we must note that this character H. S. standeth for a silver coyn in Rome, called *Sestertius*, and is by *Rosinus* in this place improperly used for *Sestertium*; for this Character H. S. is by our printers false printed, the true character being L. L. S. signifying *duas libras* (as the two L. L. do intimate) and *Semissem*, which is intimated by the Fr. Marur. in
Phil. 2.

Ch. Hegen-
dorphius in
Verrinam.

P. N. rnius
in Verrin. 5.

Ch. Pegn-
dorphius in
Verrin. 5. m.

the letter S. Where if *libra* doth signifie no more than the Roman coyn called "A. S. then is this opinion touching the characters L. L. S. easie to be confirmed. For divers Authors srendring a reason of the name *Sestertius*, say it was so called *quasi Semitertius*, that is, such a coyn as containeth *Duos solidos asses & semissem*. This *Sestertius*, was such a common Coyn among the Romans, & that *Nummus & Sestertius* became at length one to be used for the other, & *Mille hujusmodi sestertii vel nummi faciunt unum sestertium in neutro genere, & conficiunt plus minus viginti quinque coronis*. According to which rate, *quadragesima sestertia* amounting to 3125. and every particular *sestertius* is according to this rate, in value three half pence farthing q.

And here we may fitly observe the art of numbring by these *Sestercies*, which consisteth in three rules. First, if the numeral or word that denoteth the number be a noun adjective agreeing in case, gender and number with the substantive *sestertius*, then it signifieth precisely so many *sestertii*; for example sake; *Decem sestertii* do signifie so many times *l. ob. q. s. q.* 2. If the numeral being an adjective, and of a different case, be joyned with *Sestertium* in the genitive case plural, then doth it note so many thousand *Sestertii*; For example, *Decem sestertium* signifieth ten times 7. l. 16. s. 3. d. Thirdly, if the numeral joyned with *Sestertium* be an adverb, then it signifieth so many hundred thousand *sestertii. ex. grs. Decies sestertium* do signifie ten hundred times 7. l. 16. s. 3. d. Yea the numeral being an adverb, is sometimes put simply by it self, without the addition of any other word to signifie in the same manner, the genitive case *Sestertium* being understood. For the better conceiving hereof, the former example may be thus set down.

Decem

Decem se-	valent	10. Sester-	De nostro	1	s	d	ob	q
steriii.		os.		0000	10	6	1	3
Decem se-		10. Millia se-		0078	02	6	0	0
stertium.		stertium.		78112	10	0	0	0
Decies se-		10. Centena						
stertium.		Millia sester-						
Decies.		tium.						

Clodia lex.

Publius Clodius Trib. Pleb. made a Law, by virtue whereof the Priest called *Pessimumus sacerdos* (from the place where he did first exercise those holy rites in the honour of the mother Goddess) should be deprived of his Priesthood, and the Temple built in the honour of this Goddess should be bestowed upon *Brutignus* of *Gillo-Gracia*.

Cic. pro Sext.
item d: A-
rusp. respon.

Domitia lex.

Cn. Domitius Ahenobarbus Trib. Pleb. enacted a law, that the Colledges of Priests should not as they were wont, admit whom they would into the order of Priesthood, but it should be in the power of the people. And because it was contrary to their religion, that Church-dignities should be bestowed by the common people, hence did he ordain that the lesser part of the people, namely seventeen Tribes should elect whom they thought fit, and afterward he should have his confirmation or admission from the Colledge.

C. c. Arar.

Lex incerti nominis de vacatione sacerdotum.

Cicero in his orations mentioneth a law (not naming the author thereof) whereby the Priests were privileged from their service in all wars, except only in uproars or civil tumults, & these privileges were termed *Vacationes*.

Cic. Phil. 8.
& pro Font.

x B. La'em.
in Phil. 5.

CAP.

CAP. 4.

De civitate & jure civium Rom.

Cic. pro Rab.
& sep. alias.

M *Forcis lex de civitate.*
Forcius Trib. Pleb. established a law, that no Magistrate should beat any Roman Citizen with rods.

Lex Sempronia.

Cic. pro Clu-
entio, & xpe
alias.

C. Sempronius Gracchus Trib. pleb. preferred a Law whereby he disabled the Magistrate from punishing any Roman Citizen either with rods or with an ax, that is, with death, without the allowance of the people: Secondly, by virtue of this law, if any Magistrate did condemn any Roman Citizen *Indicta causa*, he should be liable to the judgment and censure of the people. A third clause to this law was, *Nec quis coiret, conveniret, quo quis judicio publico circumveniretur indicta causa*. He was said to be condemned *causa indicta*, which was condemned before he had spoken for himself. Although *y Indicare pro non dicere, sicut invidere pro non videre vix reperitur, tamen indictum & invisum, pro non dicto & non viso, saepe reperuntur.* *z* They were properly said *Coire*, which did work underhand against a man, that he might be condemned; we may translate it in this place to *Conspire*. *a* The verb *Circumvenio* doth commonly signifie as much as *Circumscribo*, to deceive or cheat one: but in this place to oppress one with false judgement procured by bribery or conspiracy.

P. Ramus in
orat. pro Rab.

z F. Sylv. in
orat. pro
Cluentio.

a J. Camer. in
orat. Cic. pro
L. Flac.

b F. Sylv. in
orat. pro Clu-
entio.

Lex Papia de peregrinis.

Cic. pro Balb.

The privileges of the Roman Citizens became so great, that almost all the inhabitants of the confederate nations, would forsake their own dwelling, and use means to become free Denisons in the Roman City; in-
somuch that the Embassadors of the allies and associates, did grieve much and complain of the loss of their inhabitants: whereupon a law was made by *Papius*, that all foreigners and strange comers should be expelled
out

out of the City. To the same effect was *Lex Junia*, and also *Licinia Mucia de peregrinis*: the first being preferred by *M. Junius Pennus*, the second by *L. Licinius Crassus*, and *Qu. Mutius Scævola*.

Servilia lex de civitate.

C. Servilius Glaucia preferred a law, *Ut si quis Latinus*, if any of the Latine associates could prove an action of bribery against a Senator, then should he be made a freeman of the City.

Cic. offic. l. 3.

Cic. pro Balb.

Quis Latinus.] Here we will observe with *e Sigonius* *e Sig. de jur. Ital. l. 1. c. 2.* that the Latine people were not alwaies called *Latini*, & *Italici*: sed & *socii*, & *Latini socii* & *socii nominis Latini*, & *socii nomen*, *Latinum*, & *socii ab nomine Latino*, & *socii ac Latini dicti sunt*.

Sylvani & Carbonis lex de peregrinis.

Cic. pro As-
chia.

Sylvanus & Carbo being *Tribuni pleb.* preferred a law, *Ut qui federatis civitatibus adscripti essent, si tum, cum lex ferebatur, in Italia domicilium habuissent, ac sexaginta diebus apud Praetorem profecti essent, cives Romani essent.*

Adscripti.] For the right understanding hereof we must note, that there were 2 two sorts of Citizens, some *cives nati*, that is, Citizens by birth, others *civitate donati*, that is, Citizens by donation or gift; who because they were added unto, and registered with the first sort of Citizens, were thence called *Adscripti cives*.

d F. Sylv. in
orat. pro lege
Manil.

Profecti apud Praetorem.] This verb *proficere* is sometimes *e Comitiale verbum*, and signifieth as much as *proficere nomen*, that is to render ones name unto a Magistrate; and this construction it beareth in this place.

P. Rarus in
orat. Cic.
Agr. 2.

Lex Cornelia de Municipiis.

Cic. pro Dom.

L. Cornelius Sylla preferred a law, that all *Municipal States* should lose their freedom in the *Roman City*, and also their priviledge of having commons in the *Roman field*.

Gellia Cornelia lex.

L. Gellius Publicola, and *C. Cornelius Lentulus* being *Consuls*,

Cic. pro Balb.

Consul, decreed a law, that all those private persons upon whom *C. Pompeius* in his wisdom should bestow the freedom of the *Roman* Citizens, should ever be accounted free Denizens.

CAP. 5.

De legibus ad Comitias spectantibus.

Ælia lex.

Cic. multis in locis.

Q *Ælius Petus* asked a law in time of his Consulship, *ut quoties cum populo ageretur*, that is, as often as any *Roman* Magistrate did assemble the people to give their voices, the *Augures* should observe signs and tokens in the firmament, and the Magistrates should have power *obnunciandi*, & *interdicendi*, that is, to gainsay and hinder their proceedings.

f Agel. l. 13. c. 14.

Ageretur cum populo.] Here we may note the difference between these two phrases *Agere cum populo*, and *agere ad populum*; *f* He was said, *Agere ad populum*, whosoever made any Speech or Oration unto the people, and this might be done upon any day indifferently. But then only was it said, *Agi cum populo*, when the people were assembled to the giving of their voices by a lawful Magistrate, and the people were demanded what their opinion was in the matter proposed: and this could not be done *g* but upon one of those dayes which they called *Dies Comitiales*.

g *Berlin. de ver. dier. ratione ad Cn. Ovid. Fast. Cic. in suis erat. f. p.*

Fusius lex.

Pub. Furius sive *Fusius Philus*, being Consul, ordained a law, that upon some certain days, although they were *dies Fasti*, that is, Leet-days, yet no Magistrate should summon an assembly.

Clodia lex.

Cic. pro Sena.

P. Clodius Trib. pl. abrogated both these former laws, making it unlawful to observe signs and tokens in the heavens, upon those days when the *Roman* people were to be assembled; And secondly, making it lawful to assemble

assemble the people upon any Lect-day whatsoever.

Gabinia lex.

At first, for many years the Roman people in their assemblies did suffrage *Viva voce*, at which time many of the inferiour sort gave their voices contrary to their wills, fearing the displeasure of those that were of higher place. For the better help in this point, *Gabinus* asked a law, that the people in all their elections might not suffrage *Viva voce*, but by giving up certain tablets, the manner whereof hath been formerly shewn; whence both this, and all other laws tending to this purpose have been called *Leges tabellariæ*.

Cic. 3. de leg.

Cassia lex.

After *Gabinus*, *Cassius* also preferred a law, that both the Judges in their judgements, and the people in their assemblies should suffrage by sending such tablets; but this is to be understood only of these assemblies by Wards called *Comitia Tributa*; wherein they treated of mulcts and mercements.

Cic. in Lælio.

b Rosin. ant. l. 8. c. 3.

Calia lex.

Calius Trib. pl. established a law, that not only in mulcts and mercements, but also in *perduellionis iudiciis*, that is, in taintments of treason against any person of State, (namely such as were *sacrosancti*) or against the Common-weal, this *Tabellary* liberty should have place, when the people should judge thereof.

Cic. 3. de leg.

In *perduellionis iud.*] This word *perduellis* doth signify an enemy unto the Senate, a traitor: and hence cometh this word *perduellio*, signifying not only the crime of treason, but the punishment also due thereunto. *Si crimen quod erat gravissimum inter crimina, nempe iniuria maiestatis: si poena, que erat acerbissima, nempe mortis.*

i Cæc. Sec. Curio, in orat. pro Milone.

l. Sig. de iud. l. 3. c. 3.

Papiria lex.

C. Papirius Cæbo Trib. pl. persuaded that not only in their elections, but in the proposal of their laws also, this suffraging by tablets should be used.

Cic. de leg. 3.

Cic. multis in
locis.

Sempronia lex.

C. Sempronius Gracchus Trib. Pl. preferred a law, that the Associates of *Latium* should have as great right of suffraging as the Roman Citizens.

Manilia lex.

Cic. pro Mur.

C. Manilius Trib. pl. preferred a law, that all those, who were *Libertini*, in what Tribe or Ward soever, should have the right of suffraging.

C A P. 6.

De Senatu & Senatoribus.

Cic. Verr. 7.

Q

Claudia lex.

C. Claudius Trib. pl. perswaded a law, that no Senator or Senators father, should have any ship which should contain above three hundred of those measures called *Amphora*, deeming that sufficient for the transportation of their Corn from the Roman field. Secondly, by this law the Senators were forbidden the use of trading.

[Alex. Gen.
dier: l. 2. c. 30.

Amphora.] [Alexander Neopol. observeth two sorts of these measures, namely, *Amphora Italica*, containing two *Urnae*, and *Amphora Astica*, containing three *Urnae*: every *Urna* containing two Gallons and a Potle. This in probability is understood of the Italian *Amphora*.

Cic. Phil. 2.

Tullia lex.

When as a custom had grown, that many of the Senators having by special favour obtained *Liberam legislationem*, upon all occasions would abuse that their authority, procuring thereby their private gain, and the encrease of their own honour, then M. Tullius Cic. being Consul, laboured quite to take away these kinds of embassages, which though he could not effect, yet thus far he prevailed, that whereas in former times this *Liberam legis* being once obtained, was never (not through a mans whole life) taken from him again: yet after-
ward

ward this authority should never be granted to any, longer than the space of one whole year.

Legatio Libera.] We may observe in ancient Authors three several kinds of embassages: The one, which is a message sent from the Prince or chief Governour of one Country to another, and that is expressed commonly by this one word *Legatis*, without any addition thereunto; sometimes it is called *Legatio mandata*. The second, which is when one purchaseth the title of an Ambassador, thereby the more honourably to perform some vow made; whence it was called *Legatio votiva*. The third is the office or title of an Ambassador, granted upon special favour unto a Senator, that he might with the greater authority prosecute his private suits in law, or gather up his debts in that Province whither he went; this last was termed *Legatis Libera*. All three sorts are briefly touched by *m. Toxicat.*

m. Toxicat. in orat. Phil. 1.

CAP. 7.

De Magistratibus.

L. Cornelius Sylla being Dictator, made a law, that all such as would follow him in the Civil War, should be capable of any office or magistracy before they came unto their full years. A second part of this law was, that the children of such as were *proscripti*, should be made incapable of the Roman Magistracies.

Cic. in Pison.

Before they came to their full age.] For *L. Villius* preferred a law, whereby he made such as were under age, to be incapable of the City preferments, and those he accounted under age, who had not attained unto that number of years which he had prescribed each several office: and this law was termed *Lex annalis*.

p. Ramus in Agr. l. 2.

Proscripti were such persons as were banished. For the fuller understanding, look Proscription in the tract of Punishments. *Julius Caesar* did contrary to this law, *Admissit ad honores & proscriptorum liberos*, *Sueton. Jul. 41.*

Elcira

Cic. Phil. 13.

Hircia lex.

A. Hircius made a law, that all those that followed *Pompey*, should be made incapable of all places of office.

Cornelia lex.

Cic. Phil. 2.

L. Cornelius Sylla finding the *Prætores*, that is, the *L.* chief Justices not to give sentence alwaies according to equity, yea sometimes to go quite contrary to their own Edict; made a law, that every *L.* chief Justice should administer justice according to that his first Edict hang-ed up at the beginning of his office. An addition unto this law was, that the *L.* chief Justice should not be absent out of the City above ten daies.

Cic. pro Sext

Clodia lex.

In former times it was lawful for either of the Censors to censure whom he pleased, and how he pleased, except his fellow-Censors did plainly gainsay it, and make opposition therein. But many abusing this their authority, *P. Clodius Trib. pl.* made a law, th at the Censors should not over-skip any in their election of Senators; neither should they brand any with disgrace, except such as had been accused unto them, and been condemned by them both.

Valeria lex.

Cic. Verrin. 4.

The office of a Dictator at the first institution continued but six months space, until *L. Valerius Flaccus* being *Interrex*, in the vacancy of the Consuls, preferred a law, that *L. Cornelius Sylla* should be a perpetual Dictator.

Cornelia lex.

Cic. 3. de leg.

L. Cornelius Sylla in the time of his Dictatorship, did by vertue of a law preferred by him, clip the authority of the *Tribuni pl.* disabling them of bearing any office after the expiration of their Tribuneship, taking away their authority of preferring laws, of using any solemn speech, or publick oration unto the people, of hearing appeals, of hindring any Statute or Decree tending to the hurt of the poplacy.

CAP.

CAP. 8. *De legibus.*

Q *Cacilius Metellus*, & *Titus Didius* being Consuls, forbad that *Una rogatione*, that is, in one and the same bill many things should be proposed unto the people; lest by that means, the people by granting the whole bill, might grant something which they would not, or in denying the whole bill, might deny some particular clause, which by it self they would have accepted. Moreover these two Consuls ordained, that before a law should be asked in the assemblies, it should be promulged, that is, hanged up to the publick view of the people three Market-days.

Cic. pro dom.
sua or. pontif.

Junia Lacinia lex de trinuindino.

Junius Silanus, and *L. Licinius Murena* being Consuls established that law of *Cacilius* and *Didius*, annexing a more severe punishment for the breakers thereof.

Cic. Phil. 5.

Clodia lex de intercessione.

P. Clodius Trib. pleb. made a law that the *Trib. pleb.* should have full-authority and power to propose laws; neither should they be hindered by the *Intercession*, that is, gain-saying of any.

Cic. pro Sear.

Licinia Æbutia lex.

Licinius and *Æbutius* being *Trib. pleb.* ordained, that if any preferred a law touching the oversight, the charge or cure of any business in hand; neither he nor any fellow-officer with him, nor any elied unto him should have this oversight or charge committed to him.

Cic. pro dom.
sua ad pontif.

CAP. 9.

De Provinciis.

Sempronia de Provinciis.

C *Sempronius Gracchus Trib. Pleb.* ordained, that the Senate every year before the election of their Consuls, should

Cic. de prov.
consulibus.

should as it seemed best to them, appoint out what Provinces the Consuls now to be elected, should after the expiration of their office go unto; for which Provinces afterward the Consuls designed should cast lots. Another clause to this law was, that whereas in former times by a decree from the Senate, it was lawfull for the Tribunes to hinder the Roman assemblies, henceforward they should have no authority.

Cornelia de Provinciis.

Cic. ep. 9. ad
Leatu.

L. Cornelius Sylla being Dictator, preferred a law, that whosoever went into a Province *cum imperio*, *tamdiu illud imperium retineret, quoad in urbem reuersus esset*: whereas in former times his rule and government was to be resigned at the expiration of a set time appointed: yea although no successor were sent, yet could he not continue there *cum imperio* without a new Commission. A clause added unto this Law was, that after the coming of any new President or Governour into the Province, the old Provincial President should depart within thirty dayes.

p Sig. de jure.
Prov. l. 3. c. 13
q Sig. ejus.
l. c. 6.
Cic. pro L.
Mur.
y Melanct. in
brat. pro Mur.

Esse cum imperio] that is, *p Exercitui præsse, q vel habere jus administrandi, & suis auspiciis gerendi belli.*

Titia lex de Provincia.

Titius or (as some say) *Decius* preferred a law, that the Provincial Treasurers called *Quæstores*, should cast lots for their Provinces: whence *Tully* in the Oration now quoted inferreth, that although *Ostia* being the better Province fell upon *Servius Sulpicius*, yet inasmuch as it fell *Lege Titia*, that is, by casting lots, he could not therefore challenge any superiority above *L. Muræna*, *sed utriusque nomen concedis in Quæstura*, that is, their fame and renown was equal in their *Quæstorship*.

Julia lex de provinciis.

Cic. Phil. 1.

C. Julius Caesar established two laws touching the Roman Provinces: one, that no *Prætor* should govern a Province above twelve months; nor *Proconsul* above two year. The several heads or clauses of his second law could

could not all be found out, but those which have come to light are these: First, that *Achaia*, *Thessalia*, and all *Græcia* should be free; neither should any Roman Magistrate sit in judgement in those Provinces. (*Cic. pro domo.*) Secondly, that the Provincial Governours and their *Comites*, that is, assistants or attendants, should have hay, and all other necessaries provided them on the way, by those Towns and villages through which they passed. (*Cic. in Pison.*) Thirdly, that the Provincial Magistrates at their departure should leave a book of their accounts in two Cities of their Province, and likewise should send a copy of their accounts unto the Roman Treasure-house. (*Cic. in Pison.*) Fourthly, that it should neither be lawful for the people to bestow, nor for the Provincial Magistrate to receive *Aurum coronarium*, unless it were in a triumph. (*Cic. in Pison.*) Lastly, that it should be unlawful for the Provincial Magistrate, without the allowance of the People or the Senate, to depart out of their Province, to lead forth any army, to wage war, or to go into any forraign Country. (*Cic. in Pison.*)

Aurum Coron.] There was a custom among the Romans in times of victory, to present unto the L. General Coronets of Gold, instead whereof the after-ages presented a certain sum of money, which was thence called *Aurum coronarium*.

f Lipf. de Mag.
Rom. l. 2. c. 9.

Vatinia de Provinciis.

P. Vatinus Trib. pleb. procured a law that *Julius Caesar* should have the government of *Gallia Cisalpinæ*, and *Illyricum* for five years space, without any decree from the Senate, or casting lots. Secondly, that they also should go as Legates, or L. Deputies unto *Caesar*, without any decree from the Senate, whosoever were nominated in that law. Thirdly, that *Caesar* should receive money out of the Common Treasure-house towards having an army. Lastly, that he should transplant a Colony unto a certain town of *Cisalpinæ Gallia*, called *Novocomum*.

Cic. pro Balb.

Clodia de Provinciis.

Gic. pro dom. P. Clodius being Trib. pleb. procured a law, that the government of Syria, Babylon and Persia, should be committed to Gabinius; the government of Macedonia, Achaia, Thessalia, Gracia, and all Bœotia, should be committed unto Piso; and they should receive together with an army, money out of the common Treasury towards their journey.

Clodia altera de Cypro.

Gic. pro Sex.

P. Clodius preferred another law, that the Island Cyprus should be made a Province. That Ptolomæus the King of Cyprus sitting in his purple, with his Scepter and other his Princely ornaments, *Praconi publico subjiceretur*, & cum bonis omnibus publicaretur, that is, should himself with all his goods be sold by a common Cryer. That M. Cato being then Treasurer, cum jure Prætorio, adjectio etiam Quæstori, having by commission the office of a Chief Justice, and another Treasurer to accompany him, should be sent into the Island Cyprus, both to make sale of the Kings goods and estate, and also to bring back the money. Lastly, it was decreed by this law, that those who lived in exilement at Byzantium, being condemned for some capital crime, should be brought back unto the City under the name of Romans.

Praconi publico subjiceretur.] For the better understanding of that phrase, we are to understand the manner of port-sale among the Romans; which we may read in Sigonius thus. Those things were rightly sold in port-sale, which were publicly sold per Præconem sub hasta; that is, by the cryer under a spear stuck up for that purpose, and some Magistrate making good the sale by delivery of the goods. Whence I take, *publico præconi subjiçi*, and *hasta subjiçi*, to signifie one and the self same thing, namely, to be set at sale: and Cicero useth almost the self same phrase, *bona C. Pompeii, voci acerbissima subjiçta præconi*. This kind of sale was termed *Auctio*; because, as Sigonius saith in the same place, to him the goods.

1. Gic. Phil. II.

goods were sold, *Qui plurimum rem augetes*, that is, which would bid most for it: and hence is the seller thereof termed *Auctor*, as u Cic. *Id quod a malo auctore emissent*, ² Verrin. 7. that is, that which they had bought of one which had no authority to sell: and from this custom of setting up a *staple* in this kind of sale, this word *Massa* alone is used, to signifie post-sale, as *Massa Caesaris*, the sale of *Caesar's* ² Cic. Phil. 8. goods. Those who bought these goods, ³ *Tully* calleth *Señtores*, *2* *quia spem lucri sui sectabantur*. In such kind of sales, a catalogue, or note of the goods to be sold was hanged up in tables, for the publick view of passengers. Whence such goods were termed *suspensa bona*. And if any friend would redeem the goods, then did he *deicere libellos*, that is put in bonds and security to answer the matter. The phrase is used by *Tully* Cic. *pro Quintia*. And also by *Seneca*, *de benef. lib. 4. c. 12. Suspensis amici bonis libellum deicio, creditoribus ejus me obligaturus*. It is thus explained by *Turnebus*, *adv. lib. 12. c. 9.* If the sale proceeded on, then such as proposed to be chapmen signified their desire by holding up their finger: whence *Digitum tollere* signifieth the desire of buying such goods. *Alex. ab Alex. lib. 4. cap. 26.*

CAP. 10.

De Legibus Agrariis.

Those laws were termed *Leges Agrariae*, which did concern the division of the publick, or common fields: And these were either given by *Romulus* and other Kings, or taken from the enemies, or from private men which had made inclosures: or lastly, bought out of the common Treasury. *a* *Vide Sigon.*

a Sig. de jur. Ital. l. 2. c. 2.

Sempronia lex Agraria.

b *Titus Sempronius Gracchus Trib. Pl.* preferred a law *b* Cic. pro Sext. which forbad that any of the Romans should have to his own part above five hundred acres of the common fields; the one half of which it was lawful for his son to enjoy.

Sig. de jure
Ital. l. 2. c. 2.

joy. If it had so hapned, that any should enlarge these common fields, three surveyers called the *Triumviri agro dividendo*, did mark out which was common, which private ground. Moreover it was by this law provided, that the money of King *Atalus*, who made the people of Rome his heir, might be bestowed upon those citizens, which had by this law obtained a part of the common fields, to the buying of instruments for husbandry. Moreover that the Kings lands should be farmed out at a set rent by the *Censors*, whence any yearly tribute should be paid to the people.

Cornelia lex.

Cic. in. *Rul.*

L. Cornelius Sylla being Dictator, preferred a law that all the fields of those *Romans* which he had banished should be common. This publication is to be understood chiefly of those fields in *Thuscia*, near unto the City *Volaterræ*, and the City *Fisula*, which grounds *Sylla* divided amongst his souldiers.

CAP. II.

De frumentariis Legibus.

Sempronia Lex.

Cic. pro *Sex.*

T. *Sempronius Gracchus* being Tribune of the Commons, provided that a certain quantity of corn should monthly be given unto the poorer sort at a low price, *Semisse & Triente*: that is, about sixpence farthing a bushel. Hereupon was there a place appointed in Rome, for the keeping of this common corn, together with certain laws hanging up there, called *leges frumentariae*. This place was called *Horrea Sempronia*. The quantity of corn laid up in every City for this purpose is by the latter Lawyers termed *Canon*: as *Canon Alexandrinus*, *Canon urbis Romæ*, &c. vide *Stuck. de conviv. lib. 1. cap. 35.*

c. *Rosin. an.*
l. 8. c. 21.

Semisse & triente] It appeareth by the next law that *semissis* in this place must signifie the same as *sextus aris* doth there: Whereby we may note, that *semissis* doth not always signifie the half part of the Roman coyn called

As,

As, but sometime it signifieth a greater coyn, valuing almost our six pence.

Cleidia lex.

P. *Cleidius Trib. Pl.* ordained, that that corn which heretofore was sold to the poor *senis æris & trientibus in singulos modios*, that is, for six pence farthing a bushell, should hereafter be given gratis: the charge and oversight of this dole was committed to *Sext. Claudius*.

Cic. pro S. extr.
in Pison.

Terentia Cassia.

M. *Terentius* and C. *Cassius* being Consuls, preferred a law, *Uti altera decumæ a provinciis coemerentur, pretio in singulos modios H. S. trium constituto: Item ut civitatibus aequaliter imperaretur, pretio in singulos modios H. S. quatuor constituto.*

Cic. Verin.
s. 8.

For the better understanding of this law, we must note a threefold tithe paid by the Provinces. The first was the tenth part of the grain growing in the Province to be paid in *gratias*, and that was properly called *Decumæ*, or *frumentum Decumanum*, and those that took this tithe to rent, were called thence *Decumani*. A second sort of tithes was a certain quantity of corn taken up for the President, or chief governour of the Province, to keep his house, and that was called *Frumentum æstimatum*, that is, corn gathered by way of taxation: for so this word *æstimare* coming from *æ* doth signifie, *Est autem æstimare ab ære dictum, id quod vulgo dant, appreciare & taxare.* The third sort of tithes, was when the Senate finding scarcity of corn in Rome, did enjoin the Provinces to sell them a quantity of corn at a price set down by the Senators themselves, and this corn sold upon injunction, if it was paid but once in the year, it was termed *Frumentum emptum*; but if in the same year a second sale was enjoyed them, then they called that second pay, *Frumentum imperatum*. In the first clause of this law by [*altera decumæ*] is meant *Frumentum emptum*; in the second clause by these words [*civitatibus aequaliter imperaretur*] is understood *Frumentum imperatum*.

d Sig. de jur.
prov. l. 1. c. 1.

yF. Sylv. in
orat pro Clu-
entio.

Lex.

Lex Hieronica.

Cic. Verr. 4. Hiero King of Sicily obtained a law, wherein was set down the quantity of corn, that the *Aratores* or country farmers should pay unto the *Publicani*, that is, those which received the tithes, together with the time of payment, and this price agreed upon.

CAP. 12.

De legibus sumptuariis five cibariis.

a Stuck. de
conviv. l. 3.
c. 3.

b Suet. Tib. 34.

IN ancient times there was a commendable frugality among the *Romans* in their feasts, but after ages grew to immoderate excess therein: so that whole Goats and Boars, &c. were set on the table at one time. Such a hog thus dressed *Cincius* was wont to call a *Porcum Trojanum*, alluding to the *Trojan* horse; because the belly thereof was stuffed with variety of fowl and rabbits, and such like, as the *Trojan* horse was with armed men. This kind of excess *Tiberius Caesar* laboured to redress, by serving at his table cold half-eaten dishes at solemn feasts, using this proverb, *b Dimidiatus aper omnia eadem habet que totus*. Hence also men of severer discipline enacted laws termed *Leges sumptuariae*, or *Cibaria*, which prescribed a moderation, not only for the charges in their greatest feasts, that they should not exceed such and such sums of money, but also for the guests to be invited, that they should not exceed such a number. The chief of these laws were these that follow.

Lex Orchia.

C. Orchius being Protector of the Commons, by the consent of the Senate, the third year before *Cato* was Censor, preferred a law, whereby he only moderated the number of guests, without any limitation of the charges or superfluous expence at feasts.

Lex Fannia.

Twenty-two years after *Orchius* his law, *C. Fannius* being Consul, enacted another for the moderating of expences,

pences, allowing *Non plures denis assibus* to be spent in their ordinary feasts; But upon those more solemn feasts dedicated unto *Saturn*, and from thence called *Saurnalias*; likewise when any publick games were exhibited by the Roman people, he then allowed *Centum asses*, ordaining that no other fowl should then be dressed but only one hen, and that not fatted for the purpose.

Non plures denis assibus.] The Roman coyn *As* was so called *e-quasi as*, because the matter thereof was *brass*; b Varro l. 4. de ling. Lat. d Plin. l. 35. c. 4. at first it consisted of a full pound weight; afterward in the first *Punick* war, by reason of the scarcity of money, they made of every pound of brass six of those coyns, each valuing as much as they did at first. In the second *Punick* war, there were twelve made of every pound: at last by vertue of a law, which *Papirius* enacted, four and twenty were made of a pound; and so they continued; the value alwaies remained the same, *videl. ob. q.* so that to allow but ten of these to a feast, seemeth a matter altogether incredible; but consider with the frugality, the cheapness of those times, it may be granted for a truth; & for ten of these were the price of a sheep, and e A. Gel. 13. c. 2. an hundred the price of one ox.

Lex Didia.

Eighteen years after *Fannius*, *Didius* ordained that the former sumptuary laws should be of force, not only in *Rome*, but throughout *Italy*; Moreover that not only the feast-maker transgressing, but all the guests, should be liable to the penalty.

Lex Licinia.

P. Licinius Crassus preferred a law in manner agreeing with the *lex Fannia*, whereby he rather confirmed *Fannius* his law being now antiquated, than made a new.

Lex Cornelia.

Cornelius Sylla being Dictator, ordained a law for the price of meats, so that he was thought by cheapness of victuals to increase rather than restrain superfluities at feasts.

Lex

Lex Antia.

Antius Restio preferred an useful law to moderate expences in feasting, which notwithstanding was violated, and in a manner abrogated by the contrary practice of the Citizens in general. For which cause, *Restio* afterward being invited, would never come to any feast, because he would not be an eye-witness of the contempt of that law which himself had caused. If any desire to see more laws of this nature, let him read *Stuc. conviv. l. 1. c. 3. Aul. Gel. l. 2. c. 24. And Macrob. Saturn. l. 3. cap. 17.*

CAP. 13.

De re militari & bellis.

Cic. pro leg.
Manilia.

A. *Gabinus Trib. pl.* preferred a law, that the managing of the war against the Pirates should be in such manner committed unto *Pompey* for three years space, that over the whole Sea between *Heracles* his Pillars, and in the Maritime Provinces unto the four hundredth *Stadium* from the Sea, he should have power to command any Kings, L. Presidents, or whole Corporations to furnish him with all things necessary to that war.

Manilia lex.

Cic. pro leg.
Manilia.

C. Manilius Trib. pl. perswaded a law, that the managing of war against *Mithridates* should be committed unto *Cn. Pompeius* : That the whole Province where *L. Lucullus* ruled, together with his whole army should be resigned unto him : Moreover, that *Bithinia* where *Glabrio* ruled, should be added, together with all those bands and forces which he had upon the Sea against the Pirates, and all those Provinces over which the law *Gabinia* did entitle him Governour, as *Pbrygia*, *Licaonia*, *Galatia*, *Cappadocia*, *Cicilia*, *Celchis superior*, and *Armenia*.

CAP. 14.

De Tutelis.

THis word *Tutela* doth signifie a wardship, guardianship, or protection of a childe in his monage: whereof *Camerarius* observeth four sorts, and we may with *Peditarius* add the fifth. Either the overseers were appointed by will; or else the next of the kin were overseers; or the Magistrate did appoint whom he thought fit: and these three sorts *g Omphalius* calleth thus: the first *Testamentariam*, the second *Legitimam*, the third *Dativam*. The fourth sort *Camerarius* calleth *Tutelam fiduciariam que eorum est, qui emancipati defissent esse agnati*. The fifth *b Pellitarius* calleth *Tutelam honorariam*, namely, when as the office of administration is committed to others, but yet certain chief overseers were appointed to see the will performed, who were called *Tutores honorarii*. i Where we must note, that the law provided overseers, not for children under age only, but for women also.

f l. Camer. in
o ar. pro L.
Flacco.

g l. Ompha-
in orat. pro
Cæciana.

b Pellitarius
p. o Cæcin.

i Cic. p. o
Mur.

Emancipati defissent esse agnati] By the Roman law every son was in such subjection unto his father, that before he could be released of this subjection, and made free, he should by an imaginary sale & be sold three times by his natural father to another man, who was called by the lawycrs *l Pater fiduciarius*, that is, a father in trust; yea and be bought again by the natural father, and so manumitted by him, and then he became free. The form of this kind of sale, or alienation, is set down more at large in the explanation of one of the laws that followeth, with an example not much unlike this. This imaginary sale was called *Mancipatio*; the children thus alienated from the father were termed *Emancipati*; this form of setting free was termed *Emancipatio*. This *Fiduciaria tutela* then, in my opinion was thus; That when any goods did fall unto a child thus alienated,

l Vid. leg. 12
tabul.
l Sig. de jur.
Rom. l. l. c. 10

alienated, by the death of his father, then should not the oversight of this child fall unto the next of the kin, termed *agnati*, but *Quoniam desit esse agnatus*, that is, because he had in a manner lost his alliance with his kindred, therefore should the oversight of the child belong unto the father in trust, termed *Pater fiduciarius*, whence the guardianship it self was called *Tutela fiduciaria*.

Latoria lex.

Cic. 3. de offic.

This law made by *Latorius*, provided that there should be overseers appointed for those which were distracted, or did prodigally waste their patrimony. For, as it appeareth by the common adage, *Ad Agnatos & Gentiles deducendus est*, they did account all prodigals mad men; they meaning no more by that, than we do by our English proverb, when we say of a Spend-thrift, Let him be begg'd for a fool. The reason of their adage was, because if any were distracted, by the Roman law his wardship fell *Ad Agnatos & Gentiles*, that is, to the next of the kindred.

CAP. 15.

De Testamentis.

BEfore we descend unto the Laws themselves, we will explain those three divers sorts of Wills in use amongst the Romans; namely, *Testamentum calatis comitiis*: which was so called, because twice in the year in time of peace the Roman people assembled themselves together, to this end and purpose, that if any would make his Will, the whole people might bear witness thereunto: These assemblies were termed *Calata comitia*. Secondly, *Testamentum in procinctu*, that is, when a souldier in time of war, ready to give battel, did call out three or four of his fellows, and in the audience of them did by word of mouth pronounce his last will and testament. Thindly, *Testamentum per emancipationem familie*, that is, by making over his goods and possessions under

a feigned form of sale, unto a second party, called *Heris fiduciarius & imaginarius*, i.e. an heir in trust, who should afterward resign them unto the true and lawful heir: and this imaginary kind of sale was performed with certain solemnities *circa as & libram*, and also the sale it self was sometimes called *Nexus*, as likewise *Emanipatio*. Hence was the will sometimes called *Testamentum per as & libram*, sometimes *Testamentum per uicum*. For the proof of this which hath been delivered, touching the three sorts of Wills, I will refer the Reader to *m. Sigonius*.

*m. Sig. de jur.
Rom. l. i. c. 12.
Cic. Ver. 3.*

C. Furio Trib. pleb. made a law, that it should not be lawful for any to give away, in way of legacy unto any, except to the kinsmen of him which manumitted him, or some other certain persons, *supra mille asses*, that is, above fifty shillings or thereabout, there going two *Asses & semis* to the making of one *Sesterius*.

Vocatus lex.

Q. Voconius Saxa Trib. pl. tulit legem, Ne qui census esset, virginem neve mulierem supra quadrante[m] suorum bonorum heredem institueret, plusve cuiquam legaret, quam ad heredem, heredemve perveniret.

Cic. Ver. 3.

Census.] This word *Census* doth sometimes signifie all such as have tendred the just valuation of their estate unto the Censors: and then *Incensus* is opposite unto it, signifying such an one as hath not tendred his estate or name to be registred by the Censors. But in this place *Census* is taken for such a rich man, whose estate was in the Censors book valued at one hundred thousand *Sesterces*. (*Vid. Asconium in Virrem. 3.*)

Supra quadrante[m] suorum bonorum.] That is, no woman should be heir to more than one quarter of such a rich mans goods. For the right conceiving of this we must note with *n. Lacomus*, that the whole inheritance (were it never so great) was termed *As*, and that was divided into twelve parts, which the lawyers called *Uncie*:

*n. Bart. Lat.
in orat. pro
Cecinnia.*

o Alex. Gen.
dier. l. i. c. i.

Dua uncia dicebantur Sextans, tres Quadrans, quatuor Triens, quinque Quincunx, sex Semissis, septem Septunx, octo Bessis, novem Dodrans, decem Decunx, undecem Denux, Totum As, ut dictum est. Again every *Uncia* was divided into six parts, called *Sextula*: *Dua sextula Duellam, tres Semunciam faciunt.* So then according to the Lawyers (as o Alexander observeth) if there were one heir alone instituted, he was termed *Heris in Assen totum institutus*: if otherwise there were many co-heirs, then was it according as the Testator did appoint. Some were *ex Du-uncie heredes*, that is, heirs to eleven parts of his goods, there being but one part bestowed from him: some were *heredes ex quadrante*, that is, heirs to one quarter of his goods: others were *heredes ex semuncia*, that is, they had the four and twentieth part: others were *sextula aspersi*, that is, they had the threescore and twelfth part of the whole *As*, that is, of the whole inheritance, be it more or less, &c. Here we must understand that there is great difference between these two phrases, *Institui heres in totum Assen*, & *ex toto Assen*; for all those which we nominated *Heredes*, whether it were *ex Dodrante, Quadrante, vel semuncia*, or howsoever, yet were they termed *Heredes ex toto Assen*, that is, they were not *Legatarii*, such as received legacies. Now none can be said *In totum Assen institui*, but he which is the alone and sole heir unto the whole.

CAP. 16.

De usu-capione.

Aitima lex.

Cic. Ver. 3.

o Sg. de jur.
Rom. l. i. c. 11.

A Titius made a law, that the plea of prescription, or long possession should not avail in things that had been stolen, but the interest which the right owner had in those stolen goods, should remain perpetual. The words of the law are these: *Quod surreptum est, ejus rei aeterna auctoritas esset.* Where by *perpetua auctoritas* is meant *jus dominii*.

dominii. This crime of theft, as likewise of usury, was so odious unto the Romans, that whosoever was found guilty thereof, was condemned *q Lige quadrupli*, that is to pay four times as much: whence the informers against such were termed *Quadruplatores*.

q F. Sylv. i. r
V. r. m. i.

C A P. 17.

*De Judicibus, & Judiciis.**Lex accusatoria.*

Tully mentioneth a law termed *lex accusatoria*, which in truth was no law, neither was there any author thereof: But there was such a received custom amongst the Romans, that the accuser should object against the party accused, not only the present crime then questioned, but all other scapes and faults committed long before, to the bettering of his matter: that at length this accusatory custom became in manner of a law, and so was called *Lex accusatoria*. Vid. Franc. Sylv. in orat. pro Mur.
r Their custom also was to procure others to joyn with them in their accusations; those Tully calleth *Subscriptores*, because they did subscribe unto the accusation.

Cic. pro Mur.

7 Alex. Geni
dier. l. 3. c. 5.
Cic. pro Mur.

Lex Servilia & Sempronia.

Whereas *Sempronius* had preferred a law whereby he took away the authority of sitting in judgement from the Senators, and appropriated it to the Roman Gentlemen: *Q. Servilius Capi* being Consul did afterward prefer another law, whereby the administration of judgement was divided between the Senators and the Gentlemen.

Curio in orat.
pro Scauro.

Rupilia lex.

Rupilia lex vetabat diebus triginta sortiri dicam.] Here we must note with *Sigonius* that this law was of force only in the Province of *Sicilia*: also that it is one thing *scribere dicam*, that is, to enter an action: another *sortiri dicam*, that is, by lots to chuse the Judges, which was thirty dayes after.

Cic. in Ver.
7 Sig. de jur.
pror. l. 2. c. 5.

Livia

Livia lex.

Cic. de orat.
l. 3.

Though by vertue of *Servilius* his law, the Senators were made capable of the office of a Judge, yet they were not thereby equally capable with the Roman Gentlemen: and therefore did *M. Livius Drusus* ordain, that the Judges should be elected equally out of both Orders, namely, three hundred out of the Senate, and three hundred out of the Gentry.

Plautia lex.

Cic. pro Corn.
n. l.

M. Plautius Sylvanus preferred a law, that the number of Judges should be chosen, not only out of the Roman Senators and Gentlemen, but out of the Populacy also, namely, out of every Tribe fifteen Judges.

Aurelia lex.

Cic. in Verr.
4. pte.

L. Aurelius Cotta being *Pretor* made a law, that the Judges should be chosen out of the Senators, the Gentlemen, and those Martial Treasurers or Clerks of the Band called *Tribuni aerarii*.

Pompeia lex.

Cic. in Pison.

Cn. Pompeius Magnus being Consul, ordained that the Judges should be elected out of the wealthiest Centuries, tying the election notwithstanding to these three degrees of people, namely, Senators, Gentlemen, and Martial Treasurers; also he added that the number of Judges to examine causes should be seventy and five.

Julia lex.

Cic. Phil. 1.

C. Julius Caesar ordained, that the election of Judges should be out of the Senators and Gentlemen, only leaving out the Martial Treasurers; and this Tully calleth *legem Judiciariam Caesaris*.

Antonia lex.

Cic. Phil. 1.
& 5.

M. Antonius tulit *legem, ut tertia judicium decuriae e Centurionibus, Antesignanis, Alaudis, Manipularibus fieret. Judicium decuriae*:] When the L. chief Justice had taken his oath, he chose out some *ex certis ordinibus, non ex omni populo*, that is, out of such degree and place, as the law required, to sit in judgement on those cases which were

were termed *causa publica*; and these Judges he afterward divided into lesser numbers called *Decurie*. *Vid Sig. de jur. Rom. l. 2. c. 12.*

E Centurionibus.] *Centuriones* were Captains over an hundred footmen.

Antesignani.] This word *Antesignanus* hath a double acception in the *Roman Histories*. Sometimes *Antesignani* do signify the third part of the *Roman Army*: for all those souldiers that fought before the banners or ensigns, as they were called *Hastati* in respect of their weapon, so were they called *Antesignani* in respect of their ensigns before which they fought. The second part of the Army, as they were called *Principes* in respect of their prowess and valour, so were they called *Subsignani*, as fighting under the ensigns. The third part, as they were called *Triarii*, because they fought in the third, or rearward, so were they called *Postsignani*, as fighting behind the ensigns. Where we must not think that those which were called *Antesignani* and *Subsignani*, were altogether destitute of ensigns among themselves: (for every *Maniple* had his ensign) but the Eagle and other chief ensigns were carried by the *Subsignani*, and in respect had to them they had their names. And hence ariseth the second acception of this word, namely, that all those souldiers of every *Maniple*, which stood in front before their ensign were called *Antesignani*, and those were commonly the best souldiers in the company. See for the several proofs of this, *Lips. milit. Rom. l. 2. dial. 3.*

Alaudis.] *Jul. Caesar* pressed a legion of souldiers out of *Gallia Transalpina*, all which afterward he made free of *Rome*. This legion he called *Legionem Alaudarum*, from the form of their helmets, which did resemble the head of the Lark, called in French *Alauda*. *Baribol. Latomus in Phil. 1.*

Manipularibus.] Those Captains which governed a *Maniple* of Souldiers, were called *Manipulares*. *Fr. Maximianus in Phil. 1.*

Lex

Lex Cincii de donis & muneribus.

M. Cincius being Protector of the Commons, *M. Cornelius Cethegus* and *P. Sempronius Fudianus* being Consuls, preferred a law, that no man should receive a gift or bribe from his Client for pleading his cause. Of this we read in *Plautus*, and he called it *Legem muneralem*: also in *Tully de Senect.*

Cornelia lex.

Cic. pro Clu-
entio.

L. Cornelius Syll. preferred a law, that the chief Judge of the bench called *Judex Questionis*, should refer it unto the choice of the defendant, whether he would have judgement passed on him *Clam an Palam*, that is (as *Sylvius* observeth) either by voices or by tables.

Memnonia lex.

Cic. in Ver.

This law (made by *Memnius*) provided, that no action should be entered against those who were employed abroad in business for the Common-wealth. An addition unto this law was: that whosoever should *calumniari*, that is, forge an accusation against another, a certain letter should be burnt in his forehead in token of infamy. This law is sometimes called *Lex Rhemnia*. Here we may with *Fr. Sylvius* observe the difference of these three phrases *Calumniari*, *Prævaricari*, & *Tergiversari*. He which doth in his accusation forge faults never committed, is said *Calumniari*. He which undertaketh ones suit, and either will not urge reasons in the behalf of his Client, or answer the objections of his adversary when he is able, is said *Prævaricari*, that is to play the false Proctor. He which doth desist in his accusation and let his suit fall, is said *Tergiversari*.

Lex incerta de Nexu.

Cic. pro Mur.

In iis rebus quæ mancipi sunt, in periculum iudicii præstare debet, qui se nexu obligavit, that is, if the buyer of any thing in that form of sale called *Nexu*, be troubled in law, the seller thereof must secure him, and save him harmless.

x F. Sylv. in
orat. pro Mur.

Mancipi sunt] x Those things were termed *res Mancipi*, which were alienated from the seller *Nexu*, that is, by such

such a form of sale as followeth. The form was thus : At the least five Witnesses, all Roman Citizens, and of full age, besides one called *Libripens* (from holding of a pair of ballances) should be present , and the chapman or buyer should come with a certain brasse coyn in his hand, and say , (for example sake , if it were a bond-slave to be sold) *Hunc ego hominem ex jure Quiritium meum esse aio, isq; mihi emptus est hoc ære,* and forthwith striking the ballance with the brasse coyn, he gave it to him that made the sale. This kind of chaffering was termed *Nexus*, as we may suppose *a nectendo*, because it did bind the seller to make good the sale : y sometimes it is called *Per æs & libram vindictio*, because of the ceremonies used in it. Now it is commonly called *Mancipatio*, *a manus capione*, from taking that which is sold into ones hands or possession : whence the word *Mancipatus*, and *Mancipium* are used to signifie a bond-slave that is in this manner sold, though sometimes *Mancipium* doth signifie the sale it self : whence *Cic.* useth this phrase *Lex Mancipii*, to signifie a clause or condition put in the sale. All things sold after this manner were termed *Res Mancipi* : the word *Mancipi* being a noun undeclinable, as *Frugi, Cordi, Hujusmodi*, &c. and from this form of sale, the mortgaging of land for the payment of money may seem to be called *Mancipatio fiduciaria* ; He which did thus receive the mortgage, or land in way of security, is said *accipere fiduciam*. *Cic. orat. pro L. Flacco.* Upon which place saith *Lambinus* in his annotations, *Accipere fiduciam, est fundum, aut aliam rem soli seu ut appellant immobilem, ab aliquo mancipare, seu accipere ea lege ut cum ille repetat ei remaneat.* We may conject the reason of these ballances, why they should be used in this kind of bargaining, to be, because in old time they did not bargain by paying coyned money, which was termed *Æs signatum*, but by paying a certain weight of money, whence such money was termed *Æs grave*, and hence it is that metaphorically we translate *pendo* and *rependo* to pay and repay.

y Sylv. ibid.

z Melanct. in
orat. pro Mur.
a Camerar. in
orat. pro Mur.

b Priscian. lib.
3. vid.
Fr. Sylv. in
orat. pro Mur.

Alex. Gen. di-
cr. l. 1. c. 15.

CAP. 18.

*De Majestate.**Lex Varia.*Cic. pro Cor-
nel.

Q. *Varus Trib. pl.* made a law, that the *Prætores Quæ-
stores*, should sit in judgement upon those, by whom
the Allies or Associates had been moved to attempt war
against the Roman people.

Julia Lex.

Cic. Phil. 1.

C. Jul. Cesar ordained, that such as were condemned
of treason, or causing uproars in the Common-wealth,
should be banished.

CAP. 19.

De Ambitu.

Those laws were termed *Leges de Ambitu*, which
were made against indirect or unlawful courses used
in canvasses for offices.

Fabia de ambitu.

This *Lex Fabia* restrained the number of those poor
men, who because they were wont to follow up and
down, and all the day to attend such as did stand for
offices, were thence called *Señatores*.

Acilia Calpurnia.

Cic. pro Mur.

M. Acilius Glabrio, and *C. Calpurnius Piso*, being Con-
suls, made a law, that such as were convinced of sinister
and indirect means used in their canvasses, should be
fined at a certain sum of money set on their heads, and
they should be made both incapable of bearing office,
and uneligible into a Senators place.

Senatus consultum de Ambitu.

Cic. pro Mur.

M. Tullius Cic. and *C. Antonius* being Consuls, a cer-
tain decree was made by the Senate, that if such as
did either salute or attend upon those which stood for
offices, were hired by any manner of reward, or if any
publick prizes were occasioned to be plaid, or any pub-
lick

lick feasts made by them, they should be liable to the censure of *Calpurnius* his Law.

Tullia lex.

M. Tullius Cic. made a law, that no man standing for an office should cause any publick prize to be plaide, within two years that he either had stood or should stand for an office, unless the day had formerly been appointed by some will. *Item*, he ordained, that *Senators* being found to have used unlawful means, for the attaining of any office, should suffer ten years exilement. And the Commonalty offending in that point, should be punished with an heavier punishment than the law made by *Calpurnius* laid on them. An addition unto this was, that if any being cited to this answer in the Court of their undirect means, *Si morbum excusaret*, that is, If he did urge his sickness for his not appearance, then should he undergo a penalty.

Cic. pro Sext.

Si morbum excusaret.] So that *Tully* here seemeth to cut off that liberty, which the twelve tables permitted in these words, *Si iudex alterve ex litigatoribus, morbo sontoico impediat, judicii dies diffusus esto.*] i. e. If either Judge, Plaintiff or Defendant were sick, they should *diffundere diem*, id est, *d proferre & in aliud tempus rejicere*, prorogue the time of judgement. And unless some might think that by *morbus sontoicus* was meant some strange disease, *Sigonius* inferreth, that every disease is termed *Sontoicus*, which hindreth us in the performance of our business. *Sontes enim nocentes dicunt.*

*d Sig. de jud.
l. i. c. 28.*

Licinia de Sodalitat.

M. Licinius Crassus being Consul, perswaded, as in *Sodalitatis Judices ab accusatore ex tribubus ederentur.*

Sodalitia.] In the latter times the *Romans* in their canvasses would gather together a certain company of their side or faction to follow them, terming them *Sodales*, and these *Sodales* would, as it were, by violence force the people to suffrage with them, whence the violence offered by them was termed *Sodalitia*, *Sig. de Jud. lib. 2. c. 30.*

Cic. pro Plancio.

H h 2

Judices

Judices ab accusatore ederentur ex tribubus.] We may read of three sorts of Judges among the Romans, or rather of three divers kinds of elections of their Judges. For either they were, *Leſi ſortitione*; of which more may be ſeen in one of the laws following, or *Editione*, by nomination or naming them, the manner thereof being thus; That either the Plaintiff ſhould chooſe them all, and then were they called *Judices edititii*, or the Plaintiff ſhould chooſe one half, and the defendant the other, and then were they called *Judices alterni*. *Melanſibon in Cic. pro Muræ.*

CAP. 20.

De pecuniis repetundis.

FIrſt touching the word *Repetunda*, *Sigonius* ſaith that ſuch money was tearmed *Pecunia repetunda qua poſſent repeti*, which might by the courſe of law be recovered. Namely, ſuch money as any Magiſtrate, Judge, or publick Officer, did either in the Provinces, or in the City receive as a bribe, from the Allies and Associates, or from the Roman Citizens for the adminiſtration of Juſtice, or the execution of any publick duty: and this kind of bribe they termed *Pecunias repetundas*, *pecuniam ablatam, captam, coſtam, conciliatam, averſam* (*Cic. in Urnis.*) But as it ſeemeth very probable theſe laws againſt bribery were firſt occaſioned, for the eaſe and relief of the Roman Provinces and Allies, called in Latine *Socii*, who were much abuſed in this kind by the Prov. Conſuls, *Prætors* and *Queſtors*, &c. Whence *Tully* called this law againſt bribery, *Legem Socialem*. Here alſo may we note, that *Tully* uſeth this phraſe, *Pecuniam occupare*, for *Fænerari*, to put money to uſe. *Occupare pecuniam eſt collocare*, inquit *Nannius*, id eſt, *Fæneri dare*. *Vid. Lambini annot. in orat. pro L. Flacco.*

Junia lex.

M. Junius Pennus Trib. Pl. preferred a law, that no ſuch as were convinced of bribery, *Præter litis aſtimationem exilium etiam damnato eſſet irrogatum.* *Litis*

*d Cic. in orat.
pro L. Flacco.*

Litis estimationem.] Here we will consider the difference of three phrases, *Litis contestatio*, *Litis redemptio*, & *Litis estimatio*. The first signifieth the producing of witnesses when both sides shall openly in the Court use the form of words, *Testes esto*: which was not done, *antequam satisfationes factæ essent*, before Sureties were put in, by the one, that he should *Judicatum solvere*, pay that which he was condemned: by the other, that he would *rem ratam habere*, that is, stand to the Verdict or Sentence in the Court. The second phrase signifieth a composition, or an argument agreed upon by both sides between themselves: *f Redimere lites est pacem facere; qui enim paciscitur, facit ut lis non sit.* The third is when the party which is cast in the Suit is adjudged to pay the money; or the worth of the goods called in question, together with the cost and damages in law unto his adversary. *g Litem estimare est pecuniam, & qualis fuit, & propter quam condemnatus est rem, in summam redigere, qua de bonis ejus redigatur. h And Estimare litem est quod vulgo dicitur, Taxari liris expensas.*

Sig. de jud.
l. 1. c. 27.

Orat. pro Q.
Roscio.

Fr. Sylv. in
orat. pro Clu-
entio.
h I. Tristin. in
orat. pro Ra-
birio.

Atilia lex.

Mr. Atilius Glabrio made a law that such as were accused of bribery, *Neque ampliari, neque comperendinari possent*, that is, they must out of hand receive judgement.

For the right understanding of these two words [*Ampliari* & *Comperendinari*] we must consider the ancient customs and ceremonies used by the Romans in handling their suits of Law. First there was *In jus vocatio*, that is, a citation of one into the Court. Secondly, *postulatio*, that is, a request put up unto the *Prætor*, that it might be lawful for the Plaintiff to enter his action against the Defendant; whence *Postulare aliquem de hoc vel illo crimine*, is to accuse one of this or that crime. Thirdly, *Nominis delatio*, that is, the Taking of the Defendants name into the Court-book: and this was termed, *Intendere actionem, vel Litem*; and *Diam alicui dicere*, that is, to Enter an Action against one. In the second of these Acts;

namely,

i Sig. de jud.
l. l. c. 27.

k Sig. ejusd.
l. c. 28.
l Sig. ejusd. l.
cap. 21.

namely, when request was made by the Plaintiff unto the *Prætor*, that he might Enter his Action against the Defendant, then the Plaintiff did *Vadari reum*; that is, demand Sureties or Bale from the defendant, that he would appear upon the day appointed by the *Prætor*. And the Plaintiff did again, *Promittere vadimonium*, enter bond also for his own appearance upon the same day, which commonly was the third day following, called properly *Dies perendinus*, and sometimes *dies tertius* simply, as it appeareth by those capital letters. I. D. T. S. P. used to be written in their actions: which letters i *Probus* expoundeth thus; *In diem tertium, five perendinum*. So that then properly, *Lis vel reus dicitur comperendinari*, when the giving of Sentence is deferred till the third day. Moreover, before the *Prætor* would suffer the Action to be entred, he would swear the Plaintiff, that he did not accuse the Defendant *calumniandi causa*, that is, falsely or maliciously, and this kind of swearing was termed *Calumniam jurare, calumniam dejurare*, and *In litem jurare*. Now if either party were absent from the Court upon the third day, except he were sick, he was cast in his Suit, and the *Prætor* did grant an Execution called *Edictum peremptorium*, whereby he gave authority to his Adversary to seize upon his goods. Sometimes there were two or three Edicts in manner of Processes or Writs, before the *Edictum peremptorium* could be obtained: sometimes it was granted at the first, and then was it k called *unum pro omnibus*. l Now if both parties came into the Court and did appear, then were they said *se fuisse*: so that this word *fuisse* among the Lawyers, did signifie to shew ones self in the Court. Upon the third day the *Prætor* also with the whole Bench of Judges did meet, and the *Judex Questionis* (whom *Rosinus* maketh a distinct Officer differing from the *Prætor*) did cause all the *Selecti* Judges to pull out certain lots out of an urn or pitcher brought thither for that purpose, and those Judges upon whom the lot fell, were to sit in judgement:

ment: This was called *Sortitio Judicium*. Now if either the Plaintiff or Defendant did suspect any of those that they would be partial, then might he except against them, and that was called *Judicium rejectio*: Then the *Judex questionis* would in manner aforesaid choose other Judges in their places, and that was called *subsortitio*. Which being ended, those Judges which were thus chosen, received every one of them from the *Prætor* three tables, the one having this letter A written in it, betokening *Absolution*: whence *Tully* called it *litteram salutarem*: The other having this letter C written in it, betokening *Condemnation*: The third having these two letters N L betokening *Non liquet*. After the receipt of the tables then did the *Prætor mittere vel dimittere judices in consilium*; that is, sent them to cast their tables into the urnes, there being three urnes or little coffers purposely provided; the one for those Judges which were chosen out of the *Senators*, the other for those that were chosen out of the *Gentlemen*, the third for those that were chosen out of the *Martial Treasurers*. Now if they did cast the first sort of tables into the urnes, then the *Prætor* pronounced the Defendant absolved; if the second, then he pronounced him condemned; if the third, then he pronounced *Amplius cognoscendum*, that they must have longer time to enquire. And this is properly termed *Ampliatio*, a Reprieve, and in such manner is said, *quod lis vel reus dicitur Ampliari*. The proofs for this manner of proceeding in law may be collected out of *Rosinus lib. aut. g. c. 19, 20. & 24.* and out of *Sigonius* according to the Marginal quotations. The like custom seemeth to have been received also among the *Grecians*, who had three letters of their Alphabet, answerable to those among the *Romans*; Θ was *damnationis symbolum*, which occasioned that of *Perseus*.

Es potius es nigrum vitio præfigere Theta.

T. a token of absolution, A. of ampliation. *Vid. Erasm. Adag. Θ præfigere*. Some as it appeareth by *Erasm.* give a reason of Θ, because it resembleth the heart of man wounded.

wounded in the midst with a Dart, others because it is the first letter of *dalet*, signifying death according to that,

*Infelix multis ibeta est mihi litera falix.
Si daletor scribis, scribis & illa dalet.*

Cic. pro Clu-
entio.

Cornelius Sylla being Dictator, ordained a law that the chief Judge called *Judex questionis* with the whole Bench of Judges, should sit upon life and death on such as had killed a man; on such as had with an evil intent set any place on fire: on such as should walk with any weapon either to kill or rob a man; on such as had either made, bought, sold, had, or given any poison, thereby to kill a man; or any Magistrate, whosoever should cause any conventicle or secret assemblies, or should give their consent to the suborning of any man to accuse another falsely, that thereby he being innocent might be oppressed and condemned by publique judgement. Moreover *De ejus capite querito*, &c. that is, Let them sit upon life and death on that man, which shall bear false witness, that another might be condemned to death; on that Magistrate, or chief Judge, which shall take a bribe to condemn another to death.

Parricidium.] This word doth properly signifie only a murdering of ones parents or kinsfolk, but in *Numa Pompilius* his time, it signified as much as *homicidium*, that is any man-slaughter whatsoever.

CAP. 27.

Lex 12. tabularum de vindictis.

S*I qui in jure manum conferunt, utrique supersitiibus presentibus vindictis sumunto.*

Si qui in jure.] Here we must note that the custome among the Romans in old time was, that as often as any controversie did arise touching the possession of an house, a field, or any such like thing, the *Prætor* did go unto the house, field, or the thing questioned, being accompa-
nied

nied thither with the Plaintiff and the Defendant, together with others whom the law required to be present as witnesses. This place, whatsoever it were, though in the open field, during the time that the *Prætor* sat there to give judgement, was termed in Latine *Forum*, in English a *Court*. Where in the presence of the *Prætor* and the witnesses, the Plaintiff and Defendant did *manum conferere*, that is, as *in Camerarius* supposeth, argue and dispute the case *pro* and *con* in a solemn form of words prescribed them by the Law. For this phrase is borrowed by the Lawyers from the Art Military, where Souldiers are said *manum vel manu conferere*, when they fight hand to hand, [*utriq; superstitiibus presentibus*] that is, let both parties in the presence of witnesses (so *in Festus* expoundeth *superstitibus*) [*Vindicias sumunto*] that is, let them take a turfe of the ground: for so *o Sigonius* expoundeth *Vindicia*: though properly (as he observeth) it signifieth the possession of a thing, rather than the thing possessed. This Turf being taken up, was carried to the *Prætor*, and judgement was given upon that, as upon the whole. I do presume that in other cases, as in taking the possession of an house, &c. some other thing in manner of the turf was presented unto the *Prætor*, upon which, as upon the whole, he gave judgement. In process of time, the *Prætor*, by reason of the tumult of other employments, not finding convenient leisure to review every particular ground, or house called in question, & it was ordained contrary to the twelve Tables, that the Plaintiff in such cases should come into the Court, and challenge the Defendant in this form of words, *Ex jure manu conserutum te voco*, that is, I challenge thee to go out of the Court into the field, to use one towards the other that solemn form of words which the Law enjoyneth. Then did the Defendant either yield the possession of the ground, or else did reply, *Unde in me ex jure manu conserutum vocasti, inde ibi ego te revoco*. Then did they both, taking witnesses with them, without the company of the *Prætor*,

in I. Camerarius.
p10 L. Muræo.

in Rosin, ant.
l. 8. c. 29.
o Sig. de jud.
l. 1. c. 21.
Vindiciam
ferre est sen-
tentia decre-
toque rem ob-
tinere dicebar.
Vindicias ju-
dex ferebat,
vindicias qui
rem obtine-
bat. Turneb.
adv. l. 13. 27.

p A. Gel. not.
Atic. l. 20. c.
10.

inire viam; that is, go into the ground bringing back a Turf thereof, upon the which (as in manner shown) the *Prætor* gave judgement at their return.

For the better understanding of this that hath been spoken in the explanation of this Law, we must note, that the action termed *Vindicatio*, was twofold: either the suit for the possession of a thing, or the suit for the Lordship, or right owning thereof. The possession of any thing was recovered, either by a true and real violence, or by a seeming violence: this seeming violence was twofold, either it was *manus conseratio*, which was shewn immediately before; or *moribus deductio*, that is, a customary leading the unlawful possessor out of the ground, thereby to enter possession. *Vis simulata, altera a lege, altera emanavit a moribus*, saith *q Sigon*. The first of these did arise from the Roman law, the other from a custome among the Romans; the first of these is to be seen in *Tully* his Oration *pro Murena*, the other *pro Cicerone*: To these *Sigonius* addeth a third kind of seeming violence; which how justly he hath termed a violence, I shall leave to the indifferent judgement of the impartial Reader. The right of the Lordship, or owning any thing, was sued for in this manner: The Plaintiff did question with the Defendant thus; first, *an auctor esset?* that is, whether he had not covertly made away the possession of the thing thereby to frustrate the action? Secondly, *Auspenderet?* that is, whether he would put in a gage of money into the Court, which he would forfeit if he were cast, which being done the Plaintiff did also upon the demand of the Defendant put in a gage of money to be forfeited if he prevailed not in his suit. This gage of money was termed *sacramentum*; and in this sense, *Tully pro Milone* saith, *Injustis vindictis & sacramentis alienos fundos petunt*, that is, they sue for other mens grounds with unjust actions and gages of money. Thirdly, *An satisfaret?* that is, whether he would put in surety, that during the trial in law, the ground or house called in question should not be impaired? The solemn

q De iud. lib.
l. 1. c. 21.

q Sigon. de
jur. l. 1. c. 21.

solemn form of words used in the first demand, is thus to be seen in *S' Tully*, *quando in jure te conspicio, postulo anne sis auctor* ? If the Defendant held his peace, then was he adjudged to pay all costs and damage; if he professed himself the present possessor, then did the Plaintiff proceed in manner as he should for the possession thereof; if he denied it, then did the *Prætor* say unto the Plaintiff, *Quando negas, sacramento querito* : Thereupon saith the Plaintiff to the Defendant, *Quando negas, te sacramento quinquagenario provooco: spondesne te solviturum quinquaginta asses, si auctor sis* ? to whom the Defendant replied, *spondeo quinquaginta asses, si auctor sum* : *Tu vero spondesne idem, ni sim* ? The Plaintiff answered, *Ego quoq; spondeo*. Now in this kind of stipulation, the Plaintiff was said *sponsione* & *sacramento provocare, sacramento rogare, querere, & stipulari*, that is, to challenge one to pawn a sum of money for the trial of a Suit in Law. The Defendant was said, *contendere ex provocatione, contendere sacramento, & restipulari*, that is, to be sued in such manner. This money was termed *sacramentum*, & because when it was forfeited, it was bestowed in *rebus sacris & divinis*. Touching the last interrogatory, I read no set form of words, but by the word *satisfactio* the intelligent Reader may conject, that it did somewhat symbolize with our English custom of putting in Bail. * This putting in of Bail was twofold. The one was *satisfacere judicatum solvi*, to bind himself to pay what should be adjudged. The second was *satisfacere rem ratam habere*, to become bound that he would stand to the verdict and judgement of the Court. The first of these Bonds was required to be performed by the Defendant: the second by the Plaintiff's Proctor or Attorney. But if the Action were an Action of Debt, then the Proctors alone became bound; the Plaintiff's Proctor, that he would stand to the judgement; the Defendants Proctor, that the debt adjudged should be paid.

(Cic. orat. pro Mur. & pro Cæcin.

† Sig. de jud. l. i. c. 21.

* Sig. de jud. l. i. c. 27.



LIB. IV.

*Rites and Customs observed by the
Romans in their Wars.*

De Militia.

Touching the Art Military used among the Romans, it will not be impertinent to consider first how War was proclaimed, and peace established by them; then to march on to the description of their Bands or Companies, where we may first observe the Office of their chief Captain, and their subordinate Leaders, together with the several Werds, into which the universal Army was divided. After this we may descend unto the diversity of punishments used toward Captives, and likewise towards refractory and disobedient Souldiers: Adding a *Corsary* or *Period* to our whole discourse, the several rewards, which the L. General with his Souldiers after the performance of certain achievements received.

CAP. I.

De ritu, quem Romani observarunt vel fœdus ferentes vel bellum inferentes; & de triplici ratione conscribendi Milites.

WE may remember that it hath been already shewn, that both the proclaiming of War and Peace belonged unto a certain order of Roman Priests, called *Fœciales*, who by reason of their Office, I Englished *Heralds at Arms*. The Rites and Ceremonies which they used, when they proclaimed Peace, were as followeth, viz. One of those *Heralds* having his Commission from the State (after that both sides had agreed upon the Truce and League now to be concluded) took up a Stone in his hand, a using this solemn form of words: *Si recte & sine dolo malo hoc fœdus atq; hoc iurjurandum facio, dii mibi cuncta fœlicia prestent; sin aliter aut ago aut cogito (cæteris omnibus salvo) in propriis patriis, in propriis legibus, in propriis lapidibus, in propriis templis, in propriis sepulchris solus ego peream, ut hic lapis e manibus decideret* and therewithall he cast the Stone out of his hand: which manner of Oath was termed *Jurare Jovem lapidem*, or *per Jovem lapidem*, that is, as it hath been rendred by *Festus*, to swear by *Jupiter*; holding a stone in ones hand: b Many say that he did cast that stone at an Hog or Porker brought thither purposely, adding these words to the former; *Si prior populus Romanus defexit publico consilio, tum ille Diespiter populum Rom. sic ferita, ut ego hunc porcum bodie feriam*: alluding to which custom *Virgil* saith,

Et cæsa jungebant fœdera porca.

The manner of denouncing War hath been already shewn. The act of service in War was termed *Mereri sub hoc vel illi dace*, that is, to serve in War under this or that Captain; and whatsoever Souldier was discharged of his service, as having served out his whole time, he was called *miles emeritus*; and by *Tully*, such a one is said

a Po' yb. vii.
Rofin. antiq.
l. 10. c. 2.

b Sig. de jure
Ita. l. 1. c. 1.

c O. x. pro led.
ge Manil.

stipendia

d Serv. l. 1.
& 2. d. 1.
e Lipf. de mil.
lit. Rom. l. 1.
dial. 8.

f Vid. Lipf.
de milit. Rom.
l. 1. dial. 6.
g Lipf. de mil.
Rom. l. 1.
dial. 4.

stipendia consecisse. d *Servius* hath observed that the Roman souldiers were pressed three manner of wayes : per *Sacramentum*, *Conjuracionem* & *Evocationem*. But e *Lipfius* censureth him for the amiss explanation of the last member. Therefore the indifferent Reader shall give me leave to borrow the terms from *Servius*, but the explanation of them partly from *Servius*, and partly from *Lipfius* in the places now quoted. Ordinarily souldiers at their press, did each severally take their oath not to forsake their Captain or Country ; and this oath was called *Sacramentum militare* t, the words thereof are rendred by f *Polybius* thus ; *Obtemperaturus sum, & fallurus quicquid mandabitur ab imperatoribus, juxta vires* ; and those were termed *Milites per sacramentum*. g This sort of souldiers were upon appointed daies, as it were of publick Muster, elected and chosen by the military *Tribunes* under the Consuls; the assignment of the day did chiefly belong unto the Consuls, at which time if any souldier withdrew himself, and did not appear, he was severely punished, sometimes by imprisonment, sometimes by confiscation of his goods, sometimes by being sold for a bondslave. Upon extraordinary occasions (as when tumults or commotions did cause any suspicion of imminent danger) the chief leaders of the souldiers did go unto the Capitol, and bring forth two Banners or Flags; the one red, called therefore *Vexillum Roseum*, unto which the footmen repaired ; the other skie-coloured, called therefore *Caruleum*, which the horsemen followed. The reason why the horsemens banner was skie-coloured, is rendred thus, because it did most resemble the colour of the Sea, which colour they deemed most acceptable to *Neptune*, who was both the God of the Sea, and the first Author of Horses. Now because the sudden danger would not yield so much time that they might severally be sworn, therefore did they take their oath in common altogether ; only one chief souldier throughout a whole legion, took his oath at large, and in exprels words, the

the rest followed in order one by one, saying, *Ku-Dei-Dei*; that is, that he swore the same as the first. If the Tribune distrusted his Souldiers fidelity, then would he swear them every one severally in terms at large, and thence were they called *Milites per conjurationem*; as likewise *Milites subitarii*, in respect of their sudden press: The third member may also be admitted, if we with * *Lipfius* understand it in its true sense; namely for those souldiers, who by the L. General were added unto the Body of their Army, he having authority to call out such other souldiers, who for their long service were discharged from giving in their names at a muster: And these are generally by all Authors termed *Milites evocati*, and *Lipfius* deemed them all one with those whom *Servius* calleth *Milites per evocationem*. The souldiers being thus pressed, if they purposed to make war upon their enemies, then did the L. General summon them to prepare themselves by a sound of Trumpets: and this was termed *Classicum canere*, a *calando*, which signifieth to call. Which being done, a Scarlet Banner was hanged out of the L. General his Pavilion, from which Ceremony I think that that common adage did first arise, *Conferre signa & Collatis signis pugnare*, to joyn battel. Immediately upon this they did *Garrutum tollere*, make a great shout or noise with their voices, to the greater terror of their enemies; and that the noise might be the greater, they did *Arma concutere*, ruffle together with their armour, and clash their swords. These four ceremonies are to be seen more at large in * *Lipfius*. Unto which we may add the fifth, observed by *Fr. Sylvius*; namely, that at the removing of their Camp they did *conclamare vasa*; give a great shout or cry, in token that the souldiers should truss up their bagg and baggage: and hence it is that *in Plantus* useth this phrase, *Colligatis vasis*, to signifie as much as *parate* or *expedite*. Now that they might be the readier for the battle, they did gird (as I suppose) their souldiers coats close unto them; and a souldier thus girt,

Lipf. de mil. Rom. l. 1. dial.

* *Lipf. de mil. Rom. l. 1. dial. 8.*

* *Lib. 4. de mil. Rom. dial. 11, & 12. In ep. viror. illust. l. 4. ep. 1.*

m Plant. in Pseudulo.

ⁿ Pigh. in sua
præ. a. l. 1.
leptim.
^o A' ex. Gen.
dier. l. 1. c. 20.

girl, was called *Cinctus*, that is (saith ⁿ Pighius) *Cinctus* ⁿ *ignavos*, & *militia minime aptos putarunt*, *Præcinctos vero fortes & strenuos*. Hence also is that proverbial speech, *In præcinctu stare*, or *vivere*, to be in a readiness continually :

Non pudet ad morem discincti vivere Natta ? Pers. Sat. 3.

CAP. 2.

De Legione, Auxiliis, & Legionis partibus.

THE Roman Forces were in old time divided into two several parts; namely, in *Legiones & Auxilia*, into Legions and Auxiliary Bands. The Auxiliary Bands were such as the neighbour and confederate Countries did send unto the Romans. The Legions were taken out of the body of the Romans, ^p *Legio a deligendo dicta est*, from the choice and selecting of souldiers. ^q *Romulus* is said to have been the first Author of these Legions, making every Legion to contain 3000 footmen, and three hundred horsemen, ^r one thousand footmen, and one hundred horsemen being taken out of each national Tribe. Afterward it was augmented by *Romulus* himself into four thousand footmen, ^s whence it was called *Quadrata Legio*. And in process of time a Legion increased unto the number of six thousand: which number it seldom or never exceeded (as it appeareth by *Sigon*. in the place now quoted) Now ^t none could be ordinarily registred for a souldier until the seventeenth year of his age, ^u at which his first admision he was termed *Tyro*, a fresh-water souldier: and hence figuratively *Tyrocinium* hath not been translated only the first entrance into war, but also the initiation, or first entrance into any art or science whatsoever. After he had served many years, then was he termed *Veteranus*, an old beaten souldier. The Roman legion was divided in *pedes* & *eques*, there being commonly for every thousand footmen an hundred horsemen. *Pedes distributi erant in Cohortes* & *Cohortes*

^p Plur. in Romanulo.
^q Rosin. ant.
l. 10. c. 4.

^r Sig. de jur.
Rom. l. 1. c. 15.

^s Sigon. ibid.

^t Alex. Gen.
dier. l. 1. c. 20.

^u Pancir. l. rerum deperdit.
c. de habit. & vest. veter.

^x Sig. de jure
Rom. l. 1. c. 15.

Cohortes in Manipulos; Manipuli in Centurias; Equites distributi erant in Turmas, Turma in Decurias. The word *Cohors* doth signifie that part of ground, which is commonly inclosed before the gate of an house, y which from the same word we called a *Court*: and *Varro* giveth this reason of the *Metaphor*. As in a Farm-house (saith he) many out-buildings joynt together make one inclosure, so a *Cohors* consisteth of several maniples joynt together in one body. It is manifest (saith *Alexan.*) that the Romans in ancient time did very seldom, yea never (except in great necessity) inroll into their universal army above four legions: and in an ordinary legion, which he termed *Legionem justam*, ten *Cohortes*: every *Cohors* containing three maniples, every maniple two *Centuries*, every *Century* an hundred souldiers, whence they from *Centum* were called *Centuria* a *Century*. *b* These *Centuries* were sometimes divided into lesser numbers call'd *Contubernia*; every *Contubernium* containing ten souldiers besides their Captain, *c* which was called *Decanus*, & *Caput contubernii*. Where we must observe, that *Contubernium* doth signifie as well the pavilion, or lodging it self, as the souldiers lodging therein, and it may be so called *quasi contubernium*, from *Taberna* signifying any sleight lodging made of boards. Those that ruled over a thousand footmen we may in English call *Serjesants-major*: they called them *Tribuni militum*. Those that governed over the *Centurias* were called by them *Centuriones*, by us in English *Centurions*, and they had their inferior officers under them which were called *Tergiductores*, or *Extremi agminis ductores*. *d* Their office was to oversee and look unto those of the camp which were sick, who commonly came behind the army *quasi extremum agmen, & ierum aciei*. The horsemen were divided into several troops called *Turma*; every *Turma* containing thirty horsemen. Again, every *Turma* was subdivided into three less companies called *Decuria*; every *Decuria* containing ten horsemen: whence their Captain was called *Decurio*, and

y Edmunds in his observ. upon *Cæsars* Comment. lib. 2. c. 3.
z *Varro* lib. 3. de re rustica.
a *Alex. Gen.* dier. l. 1.

b *Varro* vid: *Rosin. ant.* Rom. l. 10. c. 5.
c *Rosin. ibid.*

d *Veget. vid:* *Rosin. ant.* Rom. l. 10. c. 7.

the Captains over the greater troops, namely over the several wings of the horsemen were called *Equitum Praefecti*. Now the chief Governour over the universal army was called commonly *Imperator*; we in English call him a L. General. His Lieutenant or L. Deputy was called *Legatus*, e who in old time was called *Non tam ad imperandum, quam ad consulendum Imperatori*. This word *Imperator* in the Roman histories hath a threefold acception; first it is taken for him, who by commission from the State hath the managing of an Army, being the same that *Praetor* was in ancient time; and in this sense it hath affinity with the office of our L. General. Secondly, for such a L. General who by his Prowess having put some thousand

e Lips. de milit. Rom. l. 2. dial. 10.

f Barth. Lo-
tom. in Phil.
orac. 14.

of his enemies to the sword, was both by his souldiers saluted, and by the Senate styled by the name of *Imperator*. But if he had slain less than one thousand, he was not thought worthy of this solemn salutation by that name. Lastly, it was taken for a Sovereign Prince, King, or Monarch, in which sense it was the *Prænomēn* of all the Roman Emperors, from *Julius Caesar* forward. Now because the souldiers in a legion must of necessity differ much in estate, age and experience, some being wealthier, elder, and of more experience than others; hence was it requisite also, that there should be a distinction of places in their Armies; according to the desert and worth of each several person. We are therefore likewise to understand that the Consuls every year made a general muster: at which time the military Tribunes chose out the youngest and poorest of all the rest, and called them by the name of *Velites*. Their place in regard of other souldiers was base and dishonourable, not only because they fought afar off, and were lightly armed; but also because they were commonly exposed to their enemies, as forlorn hopes. According to b Lipsius, these *Velites* were commonly placed either *In Fronte, Vici, or Cornibus*. 1. In the front of the Army. Secondly, in the distances or spaces between the several maniples. 3. *In Cornibus*, that

g Lips. de mil.
Rom. l. 1. di. 3.

h Lips. de mil.
Rom. lib. 4.
dial. 3.

that is, in the wings of the battel; not that the wings at any time consisted of those *Velites*, for that was the *Socii* & Auxiliary forces; but either the spaces in the wings were filled up by those *Velites*, or else they might obtain a promiscuous place amongst those foreigners. Notwithstanding they did like scouts run to and fro casting out their darts (as occasion was offered) and so retire: whence when a man doth leap from one thing to another in his talk, we say he doth *Agere velitatem*. Having chosen out a competent number of these scouts, they proceeded to the choice of them which they called *Hastati*, that is, Pikemen: forasmuch as they fought with a kind of javelin, which the Romans called *Hasta*. These Pikemen fought in the first part, or fore-front of the main army. The third choice which they made was of the strongest and highest bodied men, who for the prime of their age were called *Principes*: and hence was the second place or ward in the main army called *Principia*, according to *i Tbraso* his speech, *Ego ero post Principia*, that is, I will follow the *Principes*; thereby choosing to himself the best and safest place. The last sort of souldiers, which stood in the third place or ward, were called *Triarii*. They were of all the most approved, and the very last help or refuge; so that if they failed, all was lost: and hence ariseth that form of speech, *Ad Triarios ventum est*, & whereby we signifie that a thing is come to the last push. As I suppose, the weapon wherewith these *Triarii* fought, was a dart with Iron fastned at the end of it called in Latine *Pilum*. The reasons of this my conjecture are these, 1. Because the first Century of these *Triarii* was called *Primum pilum*, and their Centurion *Primopilus*, and *Primipulus*, and *Primus centurio*, because he was the chief Centurion in a whole legion, as having the charge of the chief Banner called the *Eagle*; whence *Aquila* is sometimes used to signifie *Primopilatum*, the office and place of the *Primopilus*. The second Century was called *Secundum pilum*, and their Centurion *Secundi pilus*, &c. Secondly, they called the *Principes*, which marched in the

i Teren. Eun?
Act. 4. Scen. 72

k Alex. Gen?
dier. l. 5. c. 15.

(Lipf. de mil.
Rom. l. 2.
dial. 1.

battel immediately before these *Trisril*, *Antepilanos*: which argueth that those souldiers which followed next, should be the *Milites pilanos*, and by consequence their weapon should be that kind of dart which they called *pilum*. Their manner of embattelling was divers. Sometime they would make a winged army, so that the main body thereof should be in the middle, and on each side a lesser company: the main body we in english call the *Vant-guard*, and the two lesser companies, we call *Wings*; likewise in Latine they call them *Alas aciei*, & *dextrum vel sinistrum eorum*. in *Panciro*, calleth them *Vexillationes*, because there fough no more in either wing than belonged to one banner called in Latine *vexillum*. The governors of these wings he calls *Alarum praefectos*. Sometimes they embattelled, so that the forefront of the army being small, it was enlarged bigger and bigger backward, in manner of a triangle: By *u* *Lipfius* it is demonstrated unto us under the form of the Greek letter Δ. He in the same place calleth it *caput porcinumquia*, *velut fodit*, & *ruit invadendo*. Commonly it is called, *Cuneus militum*, the Metaphor being borrowed not only from the resemblance it had with a wedge, but that also from the use of a wedge: for they never embattelled in that form, unless it was to break through their enemies, the piercing angle being thick compacted with targets. Sometimes they did in a quite contrary manner, enlarge their army in the fore-front, making it to end in an angle: and o this they called *forfex*, and *forceps militum*. Sometimes their form of embattelling was circular, and that it was called *Orbis vel globus militum*. The banner or flag was properly called *Vexillum*, being a diminutive of *Velum*. It was also called *p* *Bandum*: whence we do at this day call so many souldiers, as do fight *sub eodem bando*, a band of souldiers: as *Romulus* called those that fought *sub eodem manipulo feni* (an handfull of hay being used at that time instead of a flag) *Manipulum militum*: *Ovid.*

*Percula suspensos portabat longa maniplos,
Unde manipularis nomina miles habet.*

* *Suidas*

m *Pancir*. in
not. t. orient.
& occident. imper.
c. 31.

u *Lipf.* de mil.
Rom. l. 4.
dial. 7.

o *Lipf.* *ibid.*

p *Festus* vid.
Pancir. in not.
orient. & occi-
dent. imper.
cap. 32.

* *Suidas* is plain, Βανδον καλεσι Ρωμαῖοι τὸ σημεῖον τὸ ἐν πολεμῇ, that is, the *Romans* called their military ensign a *Band*; hence others have used *Βανδον* to signifie as much as *Signifer*, an Antient-bearer.

* *Suidas* in voce: Βανδον.

C A P. 3.

De oppugnatione urbis, & iis qua ad oppugnationem requiruntur.

IF the siege of a town seemed difficult and hard to compass, then did the *Romans* use certain means of policy, for the better effecting thereof. They environed the town with a broad and deep ditch, adding thereunto a rampire, fortified with many Castles and Fortresses; whereby they both kept the town from any forraign succour, and withall secured themselves from sallies, and other stratagems. This rampire did extend it self towards the walls of the City, so that by making (as it were) a great hill, they might over-top the City, and fight with the greater advantage. Now that this greater heap of earth might become firm, and well able to support the buildings to be erected upon it, they did cast in much timber, and stones amongst the earth; and this heap of earth, stones, and timber whence it was reared, and properly called *Agger*, whence cometh both the latine verb *Exaggerare*, and the english to *Exaggerate*, that is, to amplify or encrease a matter. The stakes, posts, and trees, which were rammed in about this bulwark, or rampire, to uphold the earth, were sometimes called *q Cervi*, because of their forked and sharp tops, but more properly *r Valli* and *Valla*. The distance or space between each stake, was called *Intervallum*; though now *Intervallum* doth signifie not only such a distance, but any distance either of space or time, as it appeareth by that of *Tully*, *f Intervallo locorum, & temporum disjuncti*. Sometimes *Vallus* doth signifie a pole or stake, whereunto vines are tied, according to that received adage which we use when a special friend forsaketh one, *Vallus vitem decipit*. From the first signification

q Lips. Poli
l. 2. dial. 2.
r Serv. Aen
l. 10.

[Cic. ep fam.
l. 1. ep. 7.

it

- it is, that *Vallum* doth often signifie the inclosure, or hedging in of trees and stakes, wherewith the bulwark is upheld; alluding whereunto: *A. Gellius* translateth *ἐπεὶ δὲ τὸν Vallum dentium*. The means of their defence, whilst they were making this their rampire, was a certain engine or ordnance of war *u* made of planks and hurdles running upon wheels, under which they might rest secure from all stones and darts cast from the walls of the City: it was called *Vinea*. A second engine was *Musculus*: The matter whereof it was made I have not read, but the use of it was, that under it the souldiers might approach unto the walls of the City, and undermine them. Thus much *x* *Lipius* seemeth to infer, when he rendreth the reason of the name: *Musculus ideo dictus, quia instar ejus animalculi foderunt sub eò terram*. A third means of their defence was *Militaris testudo*. This word *testudo* in the art Military, had a double acception, both being borrowed from the resemblance of the Tortoise-shell, which is the true and genuine signification of this word. In the first acception *Testudo* *y* doth signifie a warlike engine or fence made with boards covered over with raw hides, which served against fire and stones cast at the souldiers; under this they might safely assail the walls. *z* In the second acception it signified a Target-fence, which was a close holding together of Targets over head like a vault or roof, wherewith the footmen did defend themselves from the thick shot of arrows, or slinging of stones. Their rampire or countermure being finished, they used certain great timber Towers made upon wheels to run to and fro; which they called *Turres ambulatorie*, moveable Turrets. These Towers had many stories one over the other, *a* wherein they carried ladders and casting bridges, thereby to scale the walls. The engines hitherto have been defensive, such wherewith the Romans defended themselves in their siege: others there were offensive, wherewith they did assail the City; and of those the chief were *Balista* sive *Catapulta*, *Scorpius* sive *Onager*, *Aries*,

† A. Gel. noct.
Attic. l. 1. 15.

u Rosin. ant.
Rom. l. 10.

x Lipf. Po'ycr.
l. 1. dial. 9.

y Rosin. ant.R.
l. 10. c. 16.

z Stad. in Flo.
l. 4. c. 10.

a Rosin. ant.
Rom. l. 10.
c. 169

& *Mulleoli*. The first of these engines, as it was called *Balista* ^{from darting, or casting forth any thing,} so it was in old time called *Catapulta*, ^{from & *paulis* which} signifieth a shaft or dart; though it cannot be denied, but that *Pelta* doth also signifie a kind of shie'd made in the form of an half moon, according to that of *Virg. Æn. l. 1.*

b Lips. Pol. l.
2. dial. 2.

Ducit Amazonidum lunatis agmina peltis,

Penthesilea furens

The form thereof followeth, translated word for word out of *Marcellinus*. [Between two planks there is set in firm and fast joyned a strong and big Iron, reaching out in length after the manner of a good great rule; out of the round body whereof, which is artificially wrought there lieth forth farther out a four square beam, made hollow with a direct passage in manner of a narrow trough, tied fast with many cords of sinews twisted one within the other, and thereunto are joyned two wooden skrews: near unto one of which standeth the cunning Balister, and subtilly putteth into the hollow passage of the beam a wooden shaft, with a big head glewed fast to it. This done on both sides two lusty young men do bend the engine by turning about certain wheels: When the top of the head is drawn to the uttermost end of the cords, the shaft being carried forth of the Balista, by the inward force thereof, flieth out of sight.] That the reader may receive the more light in the understanding of this obscure description, I have added the very words of *Marcellinus*. [*Ferrum inter axiculos duos firmum compaginatur & vastum, in modum regule majoris extensum, cujus ex volumine teretis, quod in medio ars polita componit, quadratus eminet stylus extensus recto canalis angusti meatu cavatus, & bæ multiplici chorda nervorum aortiliū illigatus, eique cochlea duo lignea conjunguntur aptissime, quarum prope unam adfissit artifex contemplabilis, & subtiliter adponit in semina cœvamine sagittam ligneam, spiculo majore conglutinatam, bisque facta hinc inde validi juvenes versans agilerotabilem flexum. Quum ad extremitatem nervorum acumen vene-*

c Alm. Marc.
l 23. c. 3.

* Machinæ
Serratoriz.

* Ab hac medicatæ testium) Here we must note, that this signification of testes is borrowed from the Anatomists, which do call certain eminent parts behind osallæ-
Sordis; Testes. Vid. Fuchf. instit. med. l. 1. Sec. 5.

rit summum, percita interna pulsu a balista ex oculis evolat. In respect of its use we may English it a *Cross-bow*: but it was much bigger, and of a different form. The *Scorpion*, which now they call *Onager*, is described by *Marcellinus* in the same place thus. Two Oaken or Elm beams were hewn out, and somewhat bended, so that they seemed to bunch out in backs; and these in manner of a * saw engine are tied fast together, being bored through with wide holes, through which (by the means of those holes) strong cords are tied, keeping in the whole frame that it flart not asunder: * From between those bunches another wooden beam reaching forth overthwart, and in manner of a wain-beam erected up, is tyed with such devices unto certain ropes, that it may be pulled up higher or let down lower at ones pleasure, and at the top thereof certain iron hooks are fastned, from which hooks their hanged down a certain sling either of Iron or Tow; under which erected beam, there lieth a great piece of hair-cloath, full of small chaff, tyed fast with cords, and placed upon a bank of turfs, or a heap of bricks. When therefore it cometh to the point of skirmish, a round stone being put into the sling, four young men on one side loosing the beams, into which the ropes are incorporated, do draw back the erected beam unto the hook. Thus at length the master of the engine standing in some high place giving a mighty stroak with a hammer (and as I suppose upon the cord, whereunto the erected beam was fastned with his hook) setteth open the rails that contain the whole work, insomuch that this erected beam being now at liberty with that quick stroak, and hitting against the soft hair-cloath, it hurleth out the stone, that will batter whatsoever is in the way. And it is called *Tormentum*, quod ex eo omnis explicatio torquebatur. It is also called *Scorpio*, because when the long beam or pillar is erected, it hath a sharp top, in manner of a sling. The modern time hath imposed unto it the name of *Onager*, that is, a wild Ass, because that wild Asses, when they

they are coursed by hunters, sling back stones with their heels as far off, so that oftentimes they pierce the breasts of them that follow them. The Latine word is made from the Greek *ἄσινος*, i. e. *Afinus*, & *ἀγρῆς*, *rus vel ager*. Now if any ask me, why that sackcloth or althes was interposed, the reason is rendred by *Marcellinus*, in two lines, which I purposely did not translate in their place; because I would continue the sense without such a long parenthesis. The reason is their delivered thus; because the violence and force of the erected beam recoiling, after it had been by the stroke discharged, was such, that it would shake in pieces the strongest walls, except there were some first thing interposed, whereby the forcible strength of the recoil might be by degrees slaked. The *Arius*, or *Ram*, is described also by *Marcellinus* in the same place. [The *Ram* was a great tree or beam, like unto a mast of a ship, having a piece of iron, in manner of a *Rams* head, fastened at the end thereof, wherewith they did demolish and batter down the walls of a City. It was hung unto a beam, which lay across over a couple of pillars, and hanging thus equally ballanced, it was by force of men pulled backward, and then recoiled upon the walls] The *Rams* which *Titus* used at the siege of *Hierusalem*, ran upon wheels: which kind of *Rams* are described by *Josephus*. There be, saith he, other manner of engines, as an iron *Ram* upon four wheels bound with iron, and fastened with iron nails, to this they make four feet answerable to the bigness of the beam, and every beam hath his several wheel, and when they will batter the wall, certain men first pulling it back, they recoil it by the help of four wooden leavers put in the hinder part thereof for that purpose. The head of this *Ram* hath no horns, but is blunt, made of the strongest kind of iron, with a wonderful thick neck. They have also of both sides of the *Ram* a pentice of wood for the safeguard of those that recoil it. *Josephus Ben Gorion de bello Judaico*. In lieu of these *Rams* another engine was found out, call'd *Helepolis*, ab *invasato*

ἔλαο, that is, *capio*, and πόλις, that is, *civitas*: The form of it is to be seen also in *Marcel. ibid.* [There was (saith he) a *Testudo*, or vaulted frame made, strengthened with very long pieces of timber: it was covered over with Oxe hides, and green wicker hurdles, the upper part or convex surface thereof was overlaid with mud, to the end that it might keep off the fall of fire and casting of weapons. Now there were fastned in the front of it certain *Cuspides trifulcae*, that is iron pikes with three edges, very massive, in manner of the thunder-bolts, which painters, and Poets, exhibit unto us: this great engine the Souldiers ruling within with divers wheels and ropes, with main force they thrust it against the walls. [*Malleoli* (saith the same *Marcellinus*) were certain darts, fashioned on this manner; there was an arrow, made of a cane, betwixt the head and the neck whereof was fastned an iron full of clefts; which arrow, like unto a womans distaff, on which linnen is spinned, was finely made hollow within the belly, yet open in many places: In the belly it received fire, with fuel to feed upon; and thus being gently discharged out of a weak bow (for with an overstrong shooting the fire was extinguished) if it took fast hold on any place, it burned the same; and water being cast thereon, the fire increased, neither was there any means to quench it, but by casting dust on it] Now if they could not prevail by these engines call'd *Machinae*, then did they make certain passages under ground which they called *Cuniculi*, from *Cuniculus*, signifying a cony-berry; insomuch that these two phrases are opposite, *Machinis*, and *Cuniculis oppugnare*, as it appeareth by that of *d Plutarch*, *Cesar non jam cuniculis sed machinis tollit rempublicam*, that is, He doth not now covertly, but with open violence assault the common-weal.

*d Plutarch. in
vir. C. Caf.*

CAP. 4.

De Penis in hostes devictos.

Albeit, after the victory, the Romans inflicted divers degrees of punishment, according to the malice found in an enemy, yet were they alwaies compassionate, and (as Histories testifie) more exorable than any other Nation. The punishments which we find them to have used towards a conquered Nation are these: Either they punished them by death, or sold them *sub corona*; or dismissed them *sub jugum*, or merced them in taking away their territories; or made them tributary States. ^{e A. Gel. 7. c. 4.} An enemy was said to be sold *sub corona*, when he being plac'd in the market-place, a crown was put upon his head in token of such a sale: or therefore certain captives were said to be sold *sub corona*, because at such times they were environed about with souldiers, to keep them together, and this circle of souldiers, as likewise all other companies, is called *Corona*. When they dismissed any *sub jugum*, ^{f Stad. in Flor. l. 1. c. 12.} they erected two spears, with a third lying cross, in manner of a gallows: then they caused them being disarmed, and their belt taken away, to pass under in token of bondage. When their territories were taken from them, they were commonly conferred upon old beaten souldiers, in way of remuneration for their faithful service. This transplantation was termed *Colonia deductio*; and the place ever after *Romana colonia*, that is, a Roman Colony: at which times they chose out every tenth man, ^{g Sg de jur. Ita l. 1. 2. c. 4.} viz. such as were able, and of best sufficiency, to make and establish a publick council, whom they named *Decuriones*. Whence we may observe, that *Decurio* is not alwaies taken for a Captian over ten horsemen, but sometimes, it is used to signifie an *Alderman*, a chief Burges in a Roman Colony. These Colonies were of two sorts, some called *Colonia Latina*; others *Italica*. The Latine Colonies had *Jus civitatis suffragii*, & *Magistratus capien-*

di, si in sua Colonia magistratum gessissent. Italicis autem, Jura civitatis & suffragii nullum erat, immunes tamen erant, nec tributum aut stipendium pendebant, ut provincia solebant. Turneb. advers. l. 1. c. 11. Divers times the Romans would be content after the conquest to grant to their enemies a peaceable enjoying of their lands and possessions, conditionally, that they would yield all faithful allegiance unto the L. Deputy, whosoever the Senate of Rome should place over them. The L. Deputy was either stiled by the name of a *Proprator*, a *Proconsul* or a *Præfectus*. Those places where the two first sorts of governours did rule, were termed *Provincia*; the other from the governor was termed *Præfectura*. Where we must observe that this word *Provincia* had a threefold acception. First, it is taken for a Country, which by the force and power of arms is subdued to the Roman Empire, and governed by some Roman Deputy sent from the Senate; and this is the proper and primitive signification thereof, it being so called, *b Quod populus Rom. eam provieit, id est, amevieit*. Secondly, it is taken for any region or Country, where the L. Gen. or chief Captain over a Roman army doth mannage war against any Nation by commission from the Senate. Lastly, it signifieth any publick function, or administration of office, yea any private duty, charge, or task, either undertaken or imposed; according to that of *i Terence*, *Provinciam cepisti duram*, that is, thou hast undertaken an hard task. Now the tribute to be paid, was either certain or uncertain. The certain was properly called *Tributum vel Stipendium*, and those who paid it were termed *Tributarii sive Stipendiarii*, and this Tribute was of two sorts, either ordinary, such as was required from every house yearly, even in the time of peace; or extraordinary, such as was levied by a law, or decree of the Senate towards unexpected charges. The uncertain tribute is properly called *Velligal*, was either imposed upon such as was collected in haven-towns for the transportation of Merchants wares, and that was called from

b Pigh. lib.
Tyranniff

i Terent. in.
Ehor.

A Sig. de jur.
Rom. l. 1. c. 16.

Portus,

Portus, *Portorium*, or from *Portus Portarium*, and the receivers thereof *Portitores*. The wares after the impost-mony had been paid, were sealed by the *Publicans*, with a certain kind of tempered chalk: and this is that which *Cicero* understandeth by *Asiatica creta*, ora. pro *Flacco*: or tythe corn, namely the tenth part of their gain; and that was call'd from *Decem*, *Decuma*, and the receivers thereof *Decumani*, though *Decumanus* when it is an adjective, signifieth as much as *Maximus*, according to that of *Ovid. lib. de Trist.*

1 Stadium in
Flor. l. 1. c. 13.

*Qui venit hic fluctus, fluctus supereminet omnes;
Posterior nono est, undecimoque prior.*

The reason of this signification is *m* supposed to be, because in *Arithmetick*, amongst simple numbers the tenth is the greatest: or lastly, that mony which was paid by certain herdsmen for pasturing their cattel in the *Roman* fields and forrests: This kind of tribute was called *Scriptura*, and the pastures *Agri Scripturarii*; because (as *n Festus* saith) the Bailiff or receiver of this mony, called *Pecunarius*, did *Scribendo conficere rationes*, that is, keep his account by writing: where we must note, first, that all these kinds of Tributes were not only required in Provinces, or Countiees subdu'd, but throughout *Italy*, even in *Rome* it self. Secondly, though each collector of these Tributes was distinguished by a peculiar name; yet by a general name they were all called *Publicani*, in as much as they did take to rent these publick tributes. The chief of them which entred into bond, as the principal takers or farmers of these tributes, *Tully* calleth *Municipes*. The others, which were entred into the same bond as sureties, were termed *Præles*. Many times the *Romans* did bestow the freedom of their City upon foreign Countiees, and the degrees of freedom were proportioned accordingly as the Countiees were. Some they honoured with the name of *Roman* Citizens, but excluded them from the right of suffraging, leaving them also to be governed by their own Laws and Magistrates.

m Fr. Sylv. in
viror. illust.
ep. 2. lib. 1.

n Sig. de jure.
Rom. l. c. 4.

o Cic. de A-
rusp. respons.
& alias sæpe.

p A. Gel. no. 3.
A. Gel. 16 c. 13

q A. Gel. lib.

r Sig. de jur.
Ital. l. 1. c. 1.
f Sigon. ib.

This state they called a *Municipal state*, in Latine *Municipium*. because they were *Muneris hujus honorarii participes*. p By *Munus honorarium* in this place, is understood nothing but the title of a Roman Citizen, whereby they were priviledged to fight in a legion as free Denisons, not in an Auxiliary band, as the associates. Now the first that ever obtained this *Municipal state*, were the *Cerites*, who for preserving the holy things of *Rome* in the time of the war against the *Gauls*, were rewarded with the freedom of the City, but without power of suffraging. q From whence it is that those tables wherein the *Censors* inrolled such as were by them deprived of their voices were called *Cerites tabula*, *Horace* calleth such a table, *Ceritem ctram*, for the reason shewn before. But we must withall observe, that some *Municipal towns* have either by desert or instant suit obtained the liberty of suffraging also, which occasioneth that received distinction, that there was *Municipium sine suffragio*, & *municipium cum suffragio*. Other Countries which could not be admitted into the freedom of the City, have obtained, and that not without special and deserved respects, to be associates and confederates unto the state of *Rome*. The inhabitants of such countries were sometimes called *Socii*, sometimes *Amici*, sometimes *Latini nominis socii*, &c. The King or Prince of such a country did style himself *Amicus & Socius Senat. & Pop. Rom.* Here we must observe a difference between *Pactio* and *Fœdus*, both signifying a kind of league. That truce which in time of war is concluded upon, and accepted of both sides for a certain limited space of time is properly called *Pactio*; we commonly call it *Inducia*, and it differed from *Fœdus*: f First because that *Fœdus* is a perpetual truce or league. Secondly because it was necessary that one of those Heralds at arms called *Fœciales*, should by a solemn proclamation confirm this league called *Fœdus*, neither of which conditions was absolutely requisite in their truce termed *Pactio*.

CAP. 5.

*Multa militares, quibus milites Romani ob delicta afflic-
bantur.*

Touching the punishments that the Roman L. General used towards his own souldiers, when they were faulty, they were commonly proportioned unto the fault committed: sometimes they were easie, of which sort were also those punishments which did only brand the souldiers with disgrace: othertimes they were heavier, such as did hurt and afflict the body. To the first sort belonged these: First, *ignominiosa dimissio*, i.e. a shameful discharging of a souldier, when he is with disgrace removed from the army. Secondly, *Fraudatio stipendii*, i.e. a stopping of their pay: and such souldiers which suffered this kind of mulct, were said to be *æ-e diruti*, & because *Æs illud diruebatur in fiscum, non in militis succulum*. Thirdly, *Censio hastarum*, whereby the souldier was injoynd to resign and give up his spear: for as those which had atchieved any noble act, were for their greater honour *Hastæ puræ donati*, so others for their greater disgrace were forced to resign up their spear. Fourthly, the whole *Cohors* which had lost their banners, were compelled to eat nothing but barley bread, being deprived of their allowance in wheat: and every Centurion in that *Cohors* had his souldiers belt or girdle taken from him, which was no less disgrace among them, than it is now amongst us, that a Knight of our order of the Garter, should be deprived of his Garter. Fifthly, for petty faults they made them stand bare footed before the L. Gen. his pavilion with long poles of ten foot length in their hands, and sometimes in the sight of the other souldiers to walk up and down with turfs on their necks. In the last of these they seemed to imitate their City discipline, whereby malefactors were injoynd to take a certain beam, resembling a fork, upon their shoulder, and so to carry it round about the town, it hath some affinity with our casting of queans here in England; in the first we have

Æs illud diruebatur in fiscum, non in militis succulum. t Rosin. ant. l. 10 c. 25.

At x. Gen. i
dur. l. 2. c. 13.

u Trib. milit.

x Cic. orat.
Ihil. 3.

no custom that doth more symbolize, than the standing in a white sheet in the open view of a congregation. The last of their lesser punishments, was the opening of a vein, or letting them blood in one of their armes: 1. which kind of punishment was used towards those alone, which (as they conceived, through the abundance of their hot blood) were too adventurous and bold. The heavier kinds of punishment were these; 1. *Virgis*, *vel fuste cedi*, to be beaten with rods; or with staves and cudgels. None were ordinarily beaten with cudgels, but those who had not discharged their office, in the sending about that table, called *Tissira*, wherein the watch-word was written; or that had forsaken their place, where they were appointed to keep watch; or those who had stolen any thing from out the camp; or born false witness against their fellows, or abused their bodies by women: or lastly, that had been punished thrice for the same fault: those which were in this manner cudgelled, were often killed in the place, but if they escaped alive, they went to live in perpetual exilement. The ceremony used in this kind of cudgelling was, that the x Knight Martial should lightly touch the party to be punished with a club, which being done, all the souldiers did beat him with staves and cudgels, whence we may say of one that deserveth a good cudgelling in x Tully his phrase, *Fustuari-um meretur*. Polyb. calleth it, *ζυλοκονία*. Vid. Lips. de milit. Rom. lib. . 5. dial. 18. If a Roman souldier had broken his rank by going out of order, then *Virgis cadebatur*, that is, he was scourged with rods. Sometimes the Knight Martial upon just occasion would cause them to be sold for bondslaves, to be beheaded, to be hang'd. All these punishments were personal or particular; there remaineth one which was general, namely when the fault was general, as in their uproars, conspiracies, &c. Upon such occasions the souldiers were called together, and every tenth man upon whom the lot fell, was punished with that kind of cudgelling above spoken of; all the others escaped either

there without punishment, or with very little. The punishment it self was termed *Decimatio Legionis*, and the reason of this kind of punishment is rendered by y. Tully, *ut metus viz. ad omnes, paucos ad paucos perveniret*. Sometimes such was the clemency of the L. General, that he would punish only the twentieth, nay the hundredth man, and then it was called *vicefimatio, vel. centesimatio legionis*. y Cic. pro Cluent.

CAP. 6.

De donis militaribus ob rem fortiter gestam.

Concerning the rewards which were bestowed in war, some were by the Senate conferred upon the L. General: others were by the L. Gen. conferred upon his souldiers. Those honours which the L. General received were three, First, *Nomen Imperatoris*, of which before. Secondly, *Supplicatio*, that is a solemn procession continued for many dayes together, sometimes more, sometimes less: all which dayes the Roman people did observe as holy-dayes, offering up daily prayers and Sacrifices to the Gods in the behalf of their L. Gen. The custom being that after some notable victory the souldiers having saluted their chief Caprain (whom I call their L. Gen.) by the name of *Imperator*, then would he send letters unto the Senate, dight with Laurel, wherein he required both that name to be confirmed, and approved by them, as likewise that they would *Decernere Supplicationes*, that is, appoint such solemn supplications. Thirdly, they honoured him also at his coming home with a triumph: *Triumphus vel major, vel minor erat*, saith *Alexander*. The lesser kind of triumph was properly called *Ovatio* & *ab ove*, from a sheep, which in the time of his triumph, was led before him, and afterward sacrificed by him, as also in the greater triumph (called properly *Triumphus*) the L. Gen. sacrificed a Bull: it differeth from the greater triumph, first, in the acclamation: for in the lesser triumph the souldiers following did as it were redouble this letter O, and some are of opinion that it was there- y Salmuth. in Panec. l. rerum deperd. c. de. triumph.

fore called *Ovasio*. In the greater triumph the *souldiers* followed, crying, *Io triumphe, Io triumphe*: an example whereof may be seen in a *Horace*, where he describeth the triumph of *Bacchus*, the first Author of this greater triumph; from whose *b* name also divers Authors do derive this word *Triumphus*, he being in Greek called *Σπλυβος*, which by a little change is made *Triumphus*. Secondly, they differed, because in the greater Triumph the *L. Gen.* did wear a garment of State, called by some *Trabea*, *e* by others *Triumphalis*, *Picta vel Aurata vestis*; likewise a garland of *L. aurel*, riding in a chariot, the *Senators* themselves, with the best of the *Romans*, meeting him, his souldiers with their coronets, their chains, and other rewards, following after: but in the lesser triumph the *L. General* did wear a plain Purple Gown, without any Gold imbroidering, & a garland of mirtle-tree *d* commonly going on foot, sometimes permitted to ride on a horse; the Gentlemen and commonalty of *Rome* alone, without the *Senators*, did meet him. Moreover, for a perpetual memory of this their triumph, in some publick place certain trophies were erected. *e* *Trophæum monumentum dixere, nunc marmoreum, modicum, cum inscriptione & titulis ævo perpetuo duraturis, (Dignum est ad se referendū est, à conversione, from making the enemies to retire and turn back. Sometimes there were statues, columns, and arches built, intoken of triumph. These arches, though commonly they were known by the name of *Arcus triumphales*, yet sometimes they are called *g* *Fornices*, whence it is that *Tully* calleth *Fabius* triumphal arch *Fabianum fornitem*. If it so hapned, that the *Roman* General himself, personally, did take away any spoils from the chief Captain of the enemies, then did he hang them up in a temple consecrated to *Jupiter Feretrius*; who was so called, because *has the Romans conceited, without the special assistance of Jupiter, Dux ducem ferire non pterat*; these spoils had the name of *Opima spolia*, that is, Royal spoils. The rewards bestow-*

ed.

a Ode. 2. l. 4.

b Salmuth. in
Pancr. l. re-
nam deperd.
can. de tri-
umpho.

c Al. x. Gen.
dicit. l. 6. c. 17.

d Dion. Hal.
l. 5.

e Al. x. Gen.
dicit. l. 1. c. 2.
f Serv. Æt. l.
10.

g Fr. Sylv. in
orag. Cic. pro
Ca. Plancio.

h Alex. Gen.
dicit. l. 1. c. 14.

ed upon the souldiers were divers: either places of offices, as the place of a Centurion, of a *Præfatus*, a *Decurion*, &c. or their pay was increased, the spoils distributed amongst them: or lastly, they received certain gifts termed *Dona militaria*. In ancient times those souldiers which had best deserved, received a certain measure of corn, called by them *Adorea*, and hence it is, that *Adnea* is now used to signifie such laud and praise as is due unto a souldier. But after ages, for the better encouraging of the souldiers, have found out more honourable rewards, of which these were the chiefest; *Armilla* that is, a bracelet for the hand wrist; *Torquis*, a chain to wear about their neck; *Phalere*, horse-trappings, *Hasta pura*, that is, a spear, having no iron at the end of it (it is sometimes called *Hasta donatica*, and *Hasta graminea*.) Lastly, *Corona*, crowns, of which *Aul. Gel. l. 5. c. 6.* observeth these to have been the chief: 1. *Corona triumphalis*, which in old time was made of Laurel, but afterwards of Gold, and thence it was called *Corona aurea*: it was sent by the Senate unto the L. General, in honour of his triumph; Secondly, *Corona obsidionalis*, which was given by the souldiers unto the General when they were freed from a siege; it was made of grass growing in that place where they were besieged, whence it had the name also of *Corona graminea*. Now the reason why they made this crown of grass growing in the place where they were besieged, was thereby to yield up their right in that place unto their Captain, for by that ceremony as *Pliny* observeth, they did *Terra & ipsa alprice humo & humatione etiam credere*. And hence it is, that in races, and the like masteries, he that was overcome, did gather some of the grass of that place, and gave it unto the conqueror, as a token that he did acknowledge himself conquered; this is the reason of that Adage, *Herbam dare*, that is, to yield the victory. Thirdly, *Corona civica*, which was bestowed only upon him which had saved a Citizens life, though in proceſs of time it was also bestowed upon the L. Gen. if he spared a Roman Citizen when he had power to kill

i Alex. G. n. dier. l. c. 18.

k S'g. de jur. Rom. c. 15.

i Rosin. ant. l. 10. c. 17.

m Plin. l. 22. c. 4.

n Sa'muth. in Panc. l. rerum deperd. c. de coronis. o Pigh. l. Tyrannif.

him : it was commonly made of Oak; whence it was called *Corona quercæ*. And this I take to be the reason why in *Ovid's* time the Emperor had alwayes standing before his gates an Oak-tree in the midst of two Laurels, as an Emblem denoting two worthy vertues required in all Emperors and Princes: first, such whereby the enemy might be conquered: secondly, such whereby Citizens might be saved. Unto this *Ovid* seemeth to allude, speaking of the Laurel Tree,

p Postibus Augustis eadem fidissima custos

Arctifores stabis, medianq; intusve queream,

p. *Ovid. Met. l.*

Fab. 9.

q. *Diua. Hal.*

lib. 10.

Fourthly, *Corona Muralis*. q. He only was honoured with this, which did first scale the walls, and enter first into the enemies City: and hence this crown was put upon the circlet, or top, like unto the battlements. Fifthly, *Corona Castrens*, This the L. Gen. bestowed on him which first entered into the enemies tents: it did bear in it the resemblance of a bulwark, or at least of the mound wherewith the bulwark was strengthened: which mound was called in Latine *Palum*, and thence the crown it self was often called *Vallaris corona*. Sixthly, *Corona navalis*, with which he was honoured, which first erted into the enemies ship in a battle upon Sea: it was pourtrayed with many shipbrakes, called in Latine *Rostro*, r whence the crown it self was often called *Corona Rostata*. That Roman *Heracles Sicinus Dentatus*, obtained almost all those several rewards, and that each many times. Lastly, *Corona ovalis*, it was made of Mistle tree, the L. General used it in the lesser kind of triumphs, called *Ovationes*, from whence the Coronet it self was named *Ovalis*. It was then bestowed, when the Herald had committed some error in denouncing war: or when the enemies conquered were of mean rank and place, as Servants, or Pirates; or else if the victory were gotten without bloodshed, or great hazzard, the enemies yielding without resistance. *In quibus impulverit & incrementis victoriis, aptam esse Veneris frondem crediderunt, quod non Martius, sed quasi Veneris quidam triumphus foret.*

p. *Pigh. l. Ty-*
vann. l.

f. *A. Gel. not.*

Attic. l. 2. c.

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*in Candidatus }
requisita }*

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